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Official Report of Debates (Hansard)

Wednesday 18 September 2013

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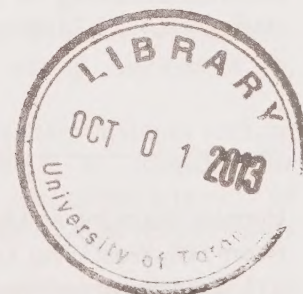
Mercredi 18 septembre 2013

Standing Committee on General Government

Skin Cancer Prevention
Act (Tanning Beds), 2013

Comité permanent des affaires gouvernementales

Loi de 2013 sur la prévention
du cancer de la peau
(lits de bronzage)



Chair: Grant Crack
Clerk: Sylwia Przewdziecki

Président : Grant Crack
Greffière : Sylwia Przewdziecki

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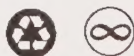
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Hansard Reporting and Interpretation Services
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Wednesday 18 September 2013

Mercredi 18 septembre 2013

The committee met at 1603 in committee room 2.

SUBCOMMITTEE REPORTS

The Vice-Chair (Mrs. Donna H. Cansfield):

Ladies and gentlemen, if we could call the Standing Committee on General Government to order. We have a small bit of business just to begin with.

The first order of business is the report of the subcommittee on committee business, and we're fortunate enough to have two. There's the report of the subcommittee for Wednesday, September 11, 2013. Would you read that into the record?

Ms. Dipika Damerla: Your subcommittee on committee business met on Wednesday, September 11, 2013, to consider the method of proceeding with Bill 30, An Act to regulate the selling and marketing of tanning services and ultraviolet light treatments, and recommends the following:

(1) That the committee hold public hearings on Bill 30 in Toronto at Queen's Park on Wednesday, September 18, 2013, during its regular meeting time.

(2) That the Clerk of the Committee, with the authorization of the Chair, post information regarding the committee's business with respect to Bill 30 in English and French on the Ontario parliamentary channel, on the Legislative Assembly website and with the CNW newswire service.

(3) That interested people who wish to be considered to make an oral presentation on Bill 30 should contact the Clerk of the Committee as soon as possible.

(4) That the Clerk of the Committee, in consultation with the Chair, be authorized to schedule witness presentations on the bill as the requests are received, on a first-come, first-served basis.

(5) That presentations be scheduled in 15-minute time slots, and that groups and individuals be offered five minutes for their presentations, followed by up to 10 minutes for questions by committee members, three minutes per caucus.

(6) That the deadline for receipt of written submissions on the bill be 5 p.m. on Wednesday, September 18, 2013.

(7) That amendments to the bill be filed with the Clerk of the Committee by 12 noon on Friday, September 20, 2013.

(8) That the committee meet on Monday, September 23, 2013, during its regular meeting time for clause-by-clause consideration of the bill.

(9) That the committee Clerk, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

Your subcommittee met further to consider the method of proceeding on its review of regulations made under subsections 2.1(2) and (3) of the Automobile Insurance Rate Stabilization Act, 2003 (Prosperous and Fair Ontario Act (Budget Measures), 2013, c. 2, schedule 1) and recommends the following:

(10) That the committee meet on Wednesday, September 25, and Monday, September 30, 2013, at Queen's Park, during its regularly scheduled meeting times for the purpose of conducting its review.

There was one more thing that was discussed that's not in here, and that was to include on September 25, if we have the time after clause—sorry—on Monday, September 23, if we have time after clause-by-clause consideration of Bill 30, to then work on the aggregates report.

Ms. Laurie Scott: It's on the next one—

Ms. Dipika Damerla: It is? I don't see it. Oh, okay. Do you need me to read this as well?

The Vice-Chair (Mrs. Donna H. Cansfield):

Could we adopt the first one, please, first?

All those in favour? All those opposed? Thank you. Carried.

Ms. Dipika Damerla: Standing Committee on General Government, subcommittee on committee business.

Report of the subcommittee, Wednesday, September 11, 2013—well, the date's wrong. September 18, 2013.

Your subcommittee on committee business met on Wednesday, September 18, 2013, to consider the method of proceeding with the committee's review of the Aggregate Resources Act (ARA), and recommends the following:

(1) That the committee meet for the purpose of report writing on the ARA on Monday, September 23, 2013, at the conclusion of clause-by-clause consideration of Bill 30, An Act to regulate the selling and mar-

keting of tanning services and ultraviolet light treatments, time permitting.

Your subcommittee met further to consider the method of proceeding on its review of Ontario regulation 273/13, pursuant to subsection 2.1(9) of the Automobile Insurance Rate Stabilization Act, 2003, and recommends the following:

(2) That the committee hold public hearings on the regulation review on Wednesday, September 25, and Monday, September 30, 2013, at Queen's Park, during its regular meeting times.

(3) That the Clerk of the Committee, with the authorization of the Chair, post information regarding the committee's business with respect to the regulation review in English and French on the Ontario parliamentary channel, on the Legislative Assembly website and with the CNW newswire service.

(4) That interested people who wish to be considered to make an oral presentation on the regulation review should contact the Clerk of the Committee as soon as possible.

(5) That the Clerk of the Committee, in consultation with the Chair, be authorized to schedule witness presentations on the regulation review as the requests are received, on a first-come, first-served basis.

(6) That presentations be scheduled in 35-minute time slots, and that groups and individuals be offered five minutes for their presentations, followed by up to 30 minutes for questions by committee members, 10 minutes per caucus.

(7) That the deadline for receipt of written submissions on the regulation review be 5 p.m. on Monday, September 30, 2013.

(8) That the committee Clerk, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

1610

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you. Could we just have a correction, though, on the third paragraph: "Your subcommittee met further ..."? Could you reread that into the record, please?

Ms. Dipika Damerla: Your subcommittee on committee business met on Wednesday, September 18, 2013—

The Vice-Chair (Mrs. Donna H. Cansfield): No, the third down.

Ms. Dipika Damerla: Your subcommittee met further to consider the method of proceeding on its review of Ontario regulation 273—

The Vice-Chair (Mrs. Donna H. Cansfield): No, 237.

Ms. Dipika Damerla: Oh. Did I do that the last time too? Okay—regulation 237/13, pursuant to subsection 2.1(9) of the Automobile Insurance Rate Stabilization Act, 2003, and recommends the following.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much. All those in favour? All those opposed? Carried.

SKIN CANCER PREVENTION ACT (TANNING BEDS), 2013

LOI DE 2013 SUR LA PRÉVENTION DU CANCER DE LA PEAU (LITS DE BRONZAGE)

Consideration of the following bill:

Bill 30, An Act to regulate the selling and marketing of tanning services and ultraviolet light treatments / Projet de loi 30, Loi visant à réglementer la vente et la commercialisation de services de bronzage et de traitements par rayonnement ultraviolet.

LUPUS FOUNDATION OF ONTARIO

The Vice-Chair (Mrs. Donna H. Cansfield): Now, you have before you a number of letters that have been sent and presentations for you to read, and then we'll start with our guests.

I'd like to invite Margaret Moroz, a member of the board of directors of the Lupus Foundation of Ontario. Ms. Moroz, there will be five minutes for your presentation. I'll try to give you a heads-up about one minute in. You'll have to excuse me if I interrupt you, in case you're reading.

Ms. Margaret Moroz: Thank you. I appreciate that.

The Vice-Chair (Mrs. Donna H. Cansfield): Then we're going to do a rotation of three minutes each. We'll start with the New Democratic Party and we'll do that rotation. Thank you very much for joining us.

Ms. Margaret Moroz: All right, thank you. I'm on the board of directors of the Lupus Foundation of Ontario. I'm also a public speaker for them.

I understand the issues around the Charter of Rights. However, young people's decision-making is directed by ads, social media and magazines to look good, dress cool, drive nice cars, drink alcohol and get a tan. One's decision-making skills are hampered when you go into a salon and see a picture or plethora of pictures of young girls in bikinis, all nicely tanned—and also young men. My point is that if you saw those same people in bikinis having cancer or having lupus, you would have a better chance at making an educated decision as to whether or not you wanted to get a suntan at a tanning salon. Psychologically, the more you are exposed to something, the more it seems right and good or acceptable, especially if it's associated with pleasure or ego.

One severe sunburn in childhood or a total of five sunburns in a lifetime can more than double your risk of developing melanoma and some eye diseases like photokeratitis.

Tanning beds can also transmit staph infections and some sexually transmitted diseases. Tanning beds emit 12 times the UV rays emitted by the sun.

I have a personal connection to this. My son has lupus. In 1999, my son went to Spain in the summer, where he was on the beach getting a tan every day. By the time he got home, he was very, very ill. His mouth was full of ulcers. He was losing hair. His teeth were loose. His fingernails were loose. He was getting kidney failure.

Eventually he was diagnosed with lupus. He had his first stroke at the St. Catharines hospital. He was transported to Toronto Western, where he spent four and a half months in the hospital, 52 days in ICU in a coma. He further had another three strokes and 25 more seizures. My son was also treated with dialysis because his kidneys had failed. His body had swollen up to the size of what looked like a Michelin tire doll.

In the final stages he was on total life support, limiting his breathing ability—three breaths on a respirator to his one. Finally, they asked me to take him off life support. I refused to do that. A neurosurgeon came in and offered to operate on my son if I would sign autopsy papers. I did. He came through, and in about three days, he started to move his hands. It took him two years of rehabilitation and going to physiotherapy to be able to walk, talk, eat and function normally. However, he still has a lot of medication—over 30 pills a day. He suffers tremendously with pain and with mental problems in terms of how the surgery had affected his brain and his ability to have a good memory.

The thing about lupus is that exposure to sunlight attacks your DNA, and the body's response is to create anti-DNA. That is a direct effect on your vital organs; it starts to deteriorate your vital organs. With lupus, it can get very, very nasty. More people have lupus than cystic fibrosis, muscular dystrophy, leukemia and MS all together, but few people know about lupus because we lack funding. We are strictly an organization that does—we do walkathons or sell raffles or whatever—

The Vice-Chair (Mrs. Donna H. Cansfield): You have one minute.

Ms. Margaret Moroz: Time is up. Questions, please.

The Vice-Chair (Mrs. Donna H. Cansfield): No, no. You have a minute.

Ms. Margaret Moroz: Sorry?

The Vice-Chair (Mrs. Donna H. Cansfield): You have a minute.

Ms. Margaret Moroz: One minute, okay. I have a hearing problem. After 65, it happens.

My son—this basically ruined his life. He didn't get to finish school. He didn't get to become an architect. He didn't get married. He doesn't have a girlfriend. And he suffers. He suffers daily. He has a great deal of pain in his joints, similar to having rheumatoid arthritis.

This is something I would not like to see happen to another child, another person. It's more common in women: 90% of cases are women and only 10% are men. I would certainly not want to see a mother go through what I went through. I quit teaching and I stayed at that hospital, slept on a couch in a waiting room for four and a half months.

So I urge you not only to pass this bill but even to raise it to a level of 30 years old, because between the age of 20 and 30, life is like a party. You want to do everything; you want to exceed in almost everything: your goals, your—

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much.

Ms. Margaret Moroz: Okay.

The Vice-Chair (Mrs. Donna H. Cansfield): So, now I just have to work this.

Ms. Margaret Moroz: And if you have any questions, please speak loudly.

The Vice-Chair (Mrs. Donna H. Cansfield): We can start with the New Democratic Party.

M^{me} France Gélinas: Thank you so much, Mrs. Moroz, for coming. And thank you for sharing the story of your son. I realize that your son's story is at an extreme, and I'm really sorry for everything that he has lost. It is not my understanding, though, that this is the regular course of the disease of lupus—

Ms. Margaret Moroz: Yes, it is.

M^{me} France Gélinas: Okay. So the link between tanning beds applies to everybody that has lupus?

Ms. Margaret Moroz: Yes, it would trigger—an excessive amount of ultraviolet light triggers the lupus, all right? There are three kinds of lupus. There is the most severe form, which my son has. There's discoid lupus. There's also a lupus that can be brought on by drugs, but when the drug is removed, that lupus goes away.

There is no cure for this disease, but often you die. I have seen cases where people have suffered and died an early death. It's much like cancer.

M^{me} France Gélinas: I thank you for sharing that with us.

When you say that you would like to increase the age to 30, how did you come up with that particular age? Why not 25? Why not 33?

Ms. Margaret Moroz: Well, I guess I came up with that based on life experience, based on knowing people in that age category, that they are out there trying to have as much fun as they can. If you look at tanning bed situations, most people are in that age group and younger. It seems after 30, that's when people want to have families, and now they're more aware of health issues. They are more eager to look things up, and they kind of settle down in life.

M^{me} France Gélinas: Is the request that we increase the age to 30 something that the lupus foundation has a position on?

Ms. Margaret Moroz: Not formally. It has been a topic of discussion.

M^{me} France G  linas: Okay, and does it have broader support within your foundation?

Ms. Margaret Moroz: Yes, it does.

M^{me} France G  linas: Thank you.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much. PCs? I don't know who is speaking or asking questions. Laurie?

Ms. Laurie Scott: No, Jeff.

Mr. Jeff Yurek: Thank you very much for coming in today. Again, I'm also sorry about what occurred with your son during his fight with the disease, with lupus.

Other than raising the age to 30, do you see anything else in this legislation that is lacking or should be looked at?

1620

Ms. Margaret Moroz: I'm sorry; I can't hear you.

Mr. Jeff Yurek: Is this okay? Now you can hear me?

Ms. Margaret Moroz: Yes.

Mr. Jeff Yurek: Other than raising the age to 30, is there anything else in the bill that is missing that you think should be added or amended?

Ms. Margaret Moroz: Well, I think it's up to you people to make that kind of request at a legislative level and to debate that. That's not for me to say, but I think another thing that is important is what the tobacco industry has had: labels on cigarette packages. If you have an educated background and you see things, you can make choices. If you see that person sitting in bed, rotting away with cancer, you're going to think twice about lighting up a cigarette. The same thing when you go into a tanning salon: A young person is looking at these ads and saying, "Oh, I want to look like that. I want to look like the girl in the bikini." She's all nicely tanned, but they don't see the girl sitting in bed who is dying of cancer or lupus.

Mr. Jeff Yurek: Thank you.

Ms. Margaret Moroz: I think those pictures should be in the salons as well.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you. Anything—

Ms. Margaret Moroz: I'm sorry. Can I just further that? I'm just going to say that the Charter of Rights is there to protect the rights of individuals and minorities. Individuals are not always in a position to make educated choices based on what is presented to them, and we do regulate—or you regulate hazardous environments and chemicals that go into the atmosphere and air pollution and nuclear waste and so on. That's going to the extreme perhaps, in your opinion, but if you are trying to even look at saving health care dollars, we have to look at supporting our young people and keeping them safe from these kinds of problems, of cancer, of the tanning bed.

I just urge you to pass this bill and protect our kids, our young people.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much. Any further questions? Ms. Jaczek.

Ms. Helena Jaczek: Thank you, Ms. Moroz, for sharing your story. You certainly have our sympathy in what you and your son have gone through.

You have obviously done a lot of research. Are there some studies that talk about the trigger of UV radiation, whether it be through tanning or through the sun, and the incidence of lupus?

Ms. Margaret Moroz: Yes. The American lupus association has far more research because they get, like, \$200 million in funding from the federal government, whereas in Canada we get zero dollars. However, if you really want to look on the website, you can, with the Lupus Foundation of America, and you will find all kinds of literature and studies and documented incidence of this information that you're looking for.

Ms. Helena Jaczek: Are you aware of any other jurisdictions that have banned tanning at a certain age group? You are proposing perhaps increasing the age to 30. Are you aware of any other jurisdictions that have done that?

Ms. Margaret Moroz: No, I'm not.

Ms. Helena Jaczek: Thank you. We have no further questions.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much for your presentation.

Ms. Margaret Moroz: Thank you, on behalf of the lupus foundation, for hearing me.

The Vice-Chair (Mrs. Donna H. Cansfield): Delighted to have you this afternoon.

JOINT CANADIAN TANNING ASSOCIATION

The Vice-Chair (Mrs. Donna H. Cansfield): The next guest is Steven Gilroy, the executive director of the Joint Canadian Tanning Association.

Mr. Gilroy, you have five minutes for your presentation. I'll try and give you a heads-up at four, and then we will start the questions with the Progressive Conservatives.

Who will lead the questions off for the Conservatives?

Interjection.

The Vice-Chair (Mrs. Donna H. Cansfield): Okay.

Mr. Steve Gilroy: As you said, my name is Steve Gilroy, and I'm the executive director of the Joint Canadian Tanning Association, Canada's largest professional association for salons. As the voice of the nation of the indoor tanning community, I'm grateful for this committee and for the opportunity to speak and share our views on Bill 30 this afternoon.

To begin, I wish to express clearly that the indoor tanning sector supports the speedy passage of Bill 30, and we would very much like to see the legislation

finalized and enacted in law so that our members can both know the rules of the road and follow them.

That being said, the JCTA sees an opportunity to strengthen the bill in two primary areas. The first of these relates to professional controls over equipment and checking identification.

As you all know, the act would serve to restrict youths from accessing tanning services. However, the professional industry is concerned that the restrictions as written could lead to a rise in self-serve tanning, which could act as an access point for teens to use restricted equipment while also leading to a general de-professionalization of our sector.

To explain, our other jurisdictions which have enacted age-based restrictions have seen a corresponding rise in the prevalence of self-serve tanning equipment. For example, in England, the self-serve industry now makes up more than half of the indoor tanning sector, while in Sweden, the number is shocking: It's almost 100%.

These self-serve machines are controlled through the use of coin boxes, swipe cards or even directly controlled timers, with the client controlling that timer. This allows the client to set their own time without the understanding of how that equipment operates, as opposed to a professionally trained operator. Moreover, by removing physical operator controls, it becomes very difficult for salons to create an effective buffer to teen access. A swipe card can be traded or given away with very little control.

If we are serious about restricting teens' access to commercial UV tanning services, then I strongly urge the committee to amend section 2 of Bill 30 to require that the person confirming ID and age maintain operator control of the equipment. Such an inclusion would strengthen the act for all ages and, perhaps most importantly, ensure that no loopholes exist when we allow teens not to continue accessing commercial UV tanning equipment.

The second key recommendation that I would like to touch on today revolves around the use of the language in the act. Throughout Bill 30, "tanning services" continued to be referenced. To most among the Legislature, the assumption would be the reference to "UV-emitting tanning equipment." However, to those of us in the industry and the public who indoor-tan, "tanning services" is a nebulous term. Indeed, there are leg tanners, stand-up spray-tanning equipment and tanning lotions. In turn, this had led to confusion on the part of the operator with what specifically we will be restricting. For example, by not defining "tanning services" in the act, or using the words "tanning bed" in the short title, we will also end up banning spray tanning for teens, which appears beyond the scope of the proposed legislation, which targets UV-emitting devices.

It is for this reason that I strongly recommend to the committee that these terms be adequately defined. This can be accomplished in the legislation by defining

"tanning services" as "UV-emitting tanning equipment."

The Vice-Chair (Mrs. Donna H. Cansfield): You have one minute, sir.

Mr. Steve Gilroy: Thank you.

This will add needed clarity to the act.

In closing, I would like to again thank the committee and its members for the time to present today. As stated, the professional salon sector supports the speedy passage of Bill 30. The suggestions I have made here today will hopefully assist you in your work in creating an effective legislation. Moreover, we believe that they will go a long way in supporting the continued development of an adult-centric professional-tanning sector.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much, Mr. Gilroy.

Mrs. Elliott?

Mrs. Christine Elliott: Thank you, Chair, and thank you very much, Mr. Gilroy, for being here today. I think you've raised some very valid concerns. I'm wondering if you've had the opportunity to draft or look at how you would like specifically to have the legislation changed so that we could take that under consideration as we go through clause by clause.

Mr. Steve Gilroy: In regard to self-serve, we could see that so long that in the legislation it showed that the person checking ID for the teen—that all of those controls are operated by somebody other than the person going in for the tan. In our insurance policy—in a professional liability insurance policy, it actually demands that the timer be remotely controlled outside the room of the tanning bed by a certified operator.

1630

Mrs. Christine Elliott: The other issue, I guess, would be to not exclude spray tanning as well; make sure that that is not going to be excluded under—

Mr. Steve Gilroy: In our understanding, this is all about UV-emitting devices. In the majority of the regulations or legislation that I have dealt with through provinces, it has shown up that a definition is applied in there. In our briefing document, we've sent some terminology that is already being used. Peel region also uses it as well—the wording. I think you need a definition also for "tanning," as well as what you mean by "UV tanning" and what you mean by "UV-tanning equipment."

Mrs. Christine Elliott: Thank you very much.

Mr. Steve Gilroy: Thank you.

Mr. Todd Smith: Mr. Gilroy, thank you for coming in today. Your presentation is exactly why we needed this bill to come to committee, just so there wouldn't be any loopholes when this actually does pass and become legislation. You've raised some valuable points here.

I am curious about the stats from Europe regarding self-serve tanning. Is the increase in self-serve tanning in the European jurisdictions that you mentioned a result of a youth tanning-bed ban or any kind of a ban on

tanning, or is that just the way that the industry has progressed there?

Mr. Steve Gilroy: Talking to the presidents of the associations in Sweden, as well as in the UK, the UK—when they went in with the ban under 18, 18 months ago, about 20% of the industry was self-serve. It is now converted to well over 50%. What's interesting is, the US has controlled—30 states now have some way of controlling self-serve so that they don't get a marketplace like Europe.

It seems like the self-serve aspect of it is much easier for the operator. Our belief is that one is cleanliness; and two, operator control is all about skin-typing and making sure you're properly exposing that person to that equipment—

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much, sir.

Mr. Fraser?

Mr. John Fraser: Thank you very much, Mr. Gilroy, for your presentation today. I have a couple of questions. I'll put them all together.

Mr. Steve Gilroy: Okay.

Mr. John Fraser: They're not really complicated questions. Do you believe that this legislation would have a significant impact on your business? Secondly, there's a requirement in the bill that patrons are identified. Do you not believe that that would have the impact—that that's not enough to monitor that?

Mr. Steve Gilroy: Are you asking that we ask for ID?

Mr. John Fraser: Yes. In other words—

Mr. Steve Gilroy: Looking at under the age of 25 and whether or not the control is correct?

Mr. John Fraser: Yes.

Mr. Steve Gilroy: It's interesting; somebody in a location could actually just check the ID, then let the person close the door, turn the timer on, and you don't know what time they put that person in. And if they don't know their skin type and they don't know their exposure schedules, they wouldn't know how to operate that equipment. We then have a problem with over-exposure.

Mr. John Fraser: I guess the question is, in terms of effectively monitoring the use by people under the age of 18, is not the requirement to identify the patron enough to prevent them from getting into that tanning machine?

Mr. Steve Gilroy: Absolutely not, especially when you have a 24-hour self-serve tanning room where they can just swipe the card, walk in the door and turn on the machine. That's happening in gyms now and also in private tanning salons as well.

Mr. John Fraser: And the second part was, how do you feel this is going to impact your business?

Mr. Steve Gilroy: Approximately 2% to 5% of our gross sales is anybody under the age of 18, for a year, so the effect will not be there. I mean, that has never been our concern. We've always believed in profes-

sional standards, and that's why we always moved in that direction.

Mr. John Fraser: Okay. Thank you very much.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much, sir. It was a great presentation, and we appreciate it.

Mr. Steve Gilroy: Thank you.

Interjection.

The Vice-Chair (Mrs. Donna H. Cansfield): Oh, I forgot about you. Sorry, France; I apologize.

M^{me} France Gélinas: I won't hold you long. Just a quick question: As the representative of the association, how ready would you say your membership is for this bill?

Mr. Steve Gilroy: Everybody, so far, that I've talked to—and we have avenues to get all the information out. That's why we want to work with the government on this. As they're prepared—as soon as it's ready—we're prepared to move ahead. Most of them are already preparing for that already by either holding—not selling packages now that the second reading has already gone through.

M^{me} France Gélinas: People talk about the ban on under 18, but there are four more pieces to the bill, one being warnings directly on the tanning beds. Is this going to be an issue?

Mr. Steve Gilroy: Health Canada already has a warning label on the bed. My understanding of the legislation is it's on the wall within one metre of the equipment and within one metre of the cash register.

By the provinces that I've dealt with over the last five years in legislation moving forward, we have not had a problem moving this forward. It really comes down to making sure that everybody is told about it. The one thing that BC did with us is give us fair warning so that we could get it out to everybody, not only our members. We believe in dealing with the whole of the industry and helping the industry out.

M^{me} France Gélinas: You're looking at how many months to be a fair warning? Let's say third reading goes on next Monday. How long of a lead time do you need to reach out to all of your members about all of the contents of the bill which have to do with advertising, which have to do with registering, which have to do with warnings and the ban on—

Mr. Steve Gilroy: Once documentation is ready from the government, give us three days and we can have it out to everybody. It's that easy for us because if it's in document forms and PDFs, that goes out; that's what we did in BC. We had it out to probably 95% of the industry because of our connection with the suppliers as well.

M^{me} France Gélinas: And what percentage of your membership, or of the industry, do you figure presently operate self-use tanning beds?

Mr. Steve Gilroy: If you included coin-operated, swipe card and client-controlled equipment, I'm going to roughly guess between 20% and 25% of the industry right now is running that way.

M^{me} France Gélinas: So we're already at 20% to 25%. Would the gyms that have the tanning booth as part of their gym—would you be able to reach out to them too?

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much. Now I can say that the presentation—

M^{me} France Gélinas: Yes or no?

Mr. Steve Gilroy: Yes.

M^{me} France Gélinas: Okay.

Mr. Steve Gilroy: We have a connection through every one of them.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you, Mr. Gilroy, for the presentation, and I apologize.

Mr. Steve Gilroy: Thank you.

CANADIAN CANCER SOCIETY

The Vice-Chair (Mrs. Donna H. Cansfield): Our next presentation is the Canadian Cancer Society, Joanne Di Nardo, senior manager, public issues, and Kate Neale, a volunteer. Again, five minutes; I'll try to give you a one-minute heads-up, and then we'll start with the Liberals, and it'll be Ms. Damerla. You may go ahead.

Ms. Joanne Di Nardo: Excellent. Thank you.

I'm the senior manager of public issues at the Canadian Cancer Society. My name is Joanne Di Nardo. Today, I am here along with Kate Neale. We've pulled her out of school, and she has come willingly to talk to us as well. We're talking about the immediate need for action on indoor tanning as it relates to cancer.

Indoor tanning causes cancer; no debate there. Research has concluded that using indoor tanning equipment before the age of 35 significantly increases a person's risk of developing melanoma. The Canadian Cancer Society has placed the issue of youth and indoor tanning on the political agenda for over seven years, so we've had seven years to prepare for this. We hope that the government will act quickly to pass Bill 30, knowing that it has strong support from all political parties and Ontarians.

In June 2011, we commissioned an Ipsos Reid poll, and it showed that 83% of Ontarians support a ban on indoor tanning by youth under the age of 18 and 77% said that youth should be prevented from using tanning beds. In April 2012, we commissioned another Ipsos Reid poll, and we had them investigate tanning behaviours of Ontario youth between the ages of 12 and 17. The findings overwhelmingly reaffirm the society's call for a ban on indoor tanning by youth under the age of 18. The study found that 52%, half, of youth indoor tanners say that their parents pay for their tanning bed use; 24%, a quarter, of youth indoor tanners say that parents first introduced them to tanning. A growing percentage of youth in Ontario, almost one in 10, are using a tanning bed, up 5% from six years ago. Voluntary guidelines and parental consent do not

work—as our youth would say, epic fail. We urgently need this provincial legislation to protect all youth in all communities.

1640

The indoor tanning industry attracts youth to their business through tanning specials—I've seen them recently on WagJag, TeamBuy, all the online coupon sites—and promotions. Also, the tanning industry conveys misleading messaging that portrays their services as a natural, safe alternative to the sun and leads consumers to believe it is beneficial to their health. This should not be allowed to continue.

At the back of our notes, you'll find a jurisdictional analysis of what has occurred. Several countries, including France, Germany and Spain, have already passed laws banning the use of indoor tanning equipment by youth. Brazil has completely banned the use of indoor tanning equipment for cosmetic purposes since 2009, and parts of Australia have moved to outright bans as well.

In Canada, Nova Scotia, BC, Quebec, New Brunswick, Prince Edward Island and Newfoundland and Labrador have all passed provincial legislation. In Ontario, bylaws have been passed in the town of Oakville, the region of Peel and the city of Belleville.

Across the border in the US, Illinois just announced that it will enact an under-18 tanning ban that will go into effect on January 1, 2014. Illinois joins California, Nevada, Oregon, Vermont and Texas—just two weeks ago—which have already passed similar bans.

To help enforce regulation of tanning beds, it will be important to create an up-to-date registry of all indoor tanning equipment in operation in the province. Public health could offer the infrastructure and support necessary to enforce this legislation.

In Ontario in 2013, an estimated 2,950 new cases of melanoma diagnoses will occur, and 460 deaths.

Skin cancer is the most common type of cancer in young Ontarians aged 15 to 29, and it is one of the most preventable.

If there are medical conditions that require UV treatments, as prescribed by a doctor, this treatment should be performed by a knowledgeable medical professional in a medical setting.

The Vice-Chair (Mrs. Donna H. Cansfield): You have one minute left.

Ms. Joanne Di Nardo: I'll pass it on to Kate.

Ms. Kate Neale: Hello. My name is Kate Neale. I'm a resident of Belleville. I am 23 years old, and I am a stage 2 melanoma cancer survivor.

I want to share my story with you briefly. I was 16 when I signed myself up to tan indoors, which developed into me tanning up to 16 times a month for 16 minutes each time in a UVB bed that even had a warning not to stay in for longer than 12 minutes. I was told it was safe by the industry and had confidence because the salon was Smart Tan-certified. My parents were against it, but the salon offered at least 10 brochures that explained the benefits and safety of indoor tan-

ning, which I would bring home and share with them often. It was not until I was diagnosed with melanoma, the deadliest form of skin cancer, at 21 years old that I found out the danger of UV rays, and that it's a known carcinogen.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much for your presentation. Hopefully, some of the questions we'll ask will be of some help to further your conversation.

We'll start with Ms. Damerla.

Ms. Dipika Damerla: Thank you, Joanne, and thank you, Kate, for sharing your story.

Kate, could you share with us if there is anything in this bill that you think needs to be changed or amended? Somebody like you, who has had this personal experience—what would be your recommendation?

Ms. Kate Neale: I think the way the bill is right now is really good. I think it should stay the same.

Ms. Dipika Damerla: That's good. Just listening to your story drives home why it is so important that we do what we are planning to do, and it's heartening that everybody in this room is supportive of that. I'm glad you were here to share your story.

We have no other questions. Thank you very much.

The Vice-Chair (Mrs. Donna H. Cansfield): Would you like to take a moment and continue with your story?

Ms. Kate Neale: If I could.

The Vice-Chair (Mrs. Donna H. Cansfield): Certainly.

Ms. Kate Neale: When I was 18 years old, I started working at the tanning salon. As part of the job, we were required to not only be tanned but to sell the tanning sessions and products by playing up the myths perpetuated by the tanning industry. We were also told to target 16- to 20-year-olds because they have the most disposable income, less knowledge and will spend more, which is true. I think I spent \$6,000 within two years when I was 16 and 17. I was addicted to tanning, and I was heavily influenced by the industry.

I want to stop every young person from using indoor tanning beds, so I started volunteering with the Canadian Cancer Society in 2012 to take action on this issue and to become a spokesperson for the indoor tanning campaign. More than a year later, thanks to the efforts of many, this dream will hopefully become a reality when this legislation becomes law.

My life has been forever changed and may be cut short as a result of my exposure to tanning beds. I want you to help me ensure that this does not happen to any other young person. I am asking for your full support of the Skin Cancer Prevention Act. I have lost a couple of years of my life due to surgeries, weekly appointments, biopsies and the anxiety and paranoia I live with every day.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much. Ms. Gélinas?

M^{me} France Gélinas: Please continue.

Ms. Kate Neale: If my story and experience with indoor tanning helps pass a law that will save lives and educate, I believe I have done all I can personally do. I do not know what medically lies ahead for me, but I know my chances of another melanoma are high. My goal is to ensure that education and regulation are applied to the indoor tanning industry. I want to prevent others, especially youth, from suffering like my family and I have.

I am quite certain the tanning industry lobby was out in full force perpetuating their myths about indoor tanning. Fortunately, medical evidence shows quite clearly that the indoor tanning industry is wrong.

My purpose for being here today is to ask you to move forward and pass strong provincial legislation restricting access for youth under the age of 18 from using tanning beds. Many groups have been asking for this ban for years, with little action in Ontario. I need you, and the people in all of the communities across the province need you, to take action in order to prevent more young lives from being lost to this deadly, yet in many cases preventable, disease.

We have taken action on smoking, drinking and driving, and cellphones, yet nothing has been done to prevent more youths from becoming victims of indoor tanning. The time to pass the law is now. We cannot afford to wait any longer. Melanoma skin cancer is one of the most common types of cancer in young Ontarians, and it's also one of the most preventable. Action on this important public issue will prevent serious health consequences.

I would like to thank you all for your time and consideration. If you have any questions, I'll be happy to answer them.

The Vice-Chair (Mrs. Donna H. Cansfield): You have one minute left.

M^{me} France Gélinas: All I can tell you is that everyone in this room is committed to having clause-by-clause next Monday and having this bill come to third reading the following Monday. So Monday, September 30 should be the day we do the victory laps, and I will be really happy to celebrate that with you.

Ms. Kate Neale: Great. Thank you so much.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much. Mr. Smith?

Mr. Todd Smith: Thank you, Madam Chair. As the MPP in the constituency where Kate lives, in Belleville, I would like to congratulate you on your continued efforts to get this legislation passed. I know you and your family personally, and what you have meant to this is incredible, really. It's one thing for politicians to stand up and talk about the impact that this has on people's lives, but I think that when you see a lovely young lady who has dealt with melanoma and has gone through the experiences that you have, it means so much more. Every time you're on the front page of a newspaper, whether it's in Belleville or Toronto, or you're on CTV news or CBC news, it just means so much more, because there are all of these other people

on TV being glorified because they have a tan, whether it's the Kardashians or it's Jersey Shore. All of these things are very popular, but I think it's so much more meaningful when people like you, Kate, take on an issue like this. So congratulations to you on everything you've done to push this bill forward. As all three of us have said, we are in full support of this bill moving forward as quickly as possible.

I do have a question, though, for Joanne. When you hear about the self-serve tanning, is that an issue that you are aware of, and do you think that it is covered off properly in the bill as it's written right now?

Ms. Joanne Di Nardo: We would like to see speedy passage of this bill, so if anything is going to hold it up, we think the bill, as is, with minor amendments, is good. We have not heard that there is a large contingent of self-serve machines, but if there is, that is something that we see as problematic. Our partners and stakeholders in public health and at the OMA and the Canadian Dermatology Association feel that is a problematic issue as well. Then we would agree that we should make that change. But at this point, we don't see it as a significant impact.

1650

Mr. Todd Smith: Yes. I was surprised to hear Mr. Gilroy's testimony saying that it made up about 20% or 25% of the tanning beds in the province. I don't know. Kate, you've worked in the industry, and maybe you are a little bit more familiar with it. Do you think there are that many?

Ms. Kate Neale: I've never heard of one in Ontario. I know that was going on a little bit in Quebec, but I've never, ever heard of that, and I worked in the industry for four years.

Mr. Todd Smith: Right. Thank you both very much for coming in.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much for joining us this afternoon. Thank you, Kate, for taking the time to come and share your story with us. It's an important message.

ALLIED BEAUTY ASSOCIATION

The Vice-Chair (Mrs. Donna H. Cansfield): Our next presenter is Gordon Greenwood, who is counsel for the Allied Beauty Association. Mr. Greenwood, you have five minutes, sir. I'll try to give you a heads-up at four.

Mr. Gordon Greenwood: I'm obviously here more as a voice than as a face of beauty.

The associations that I represent and have for almost 40 years, the Allied Beauty Association and its equivalent in the US, are the manufacturers and distributors of professional beauty products to salons and spas, and most recently have added cosmetologists themselves as members.

Obviously, your support and the support even from the industry for the regulation of the tanning bed industry is wonderful. What we're concerned about is

the application: The wording, the scope, may go beyond that and include what is known in our trade as nail gel lamps. Nail gels are the fastest-growing element of beauty. They last for three times as long—two to three times as long—as a regular manicure. They are probably 30% to 50% more expensive than your regular manicure.

What happens is, there are three coats applied—a base coat, a colour and a top coat—that are cured after each time. By the time you finish that whole process, your hands have been in a UV lamp for up to 10 minutes, depending on the—you have 30 seconds to two minutes, roughly like that. We're talking about 10 minutes for every two weeks to four weeks, depending on how rabid a nail manicure fan you are—or sometimes longer than that. What we're concerned with is, because the phrase "ultraviolet light treatments" is used in the act, it includes these.

By the way, we've got a presentation, and as the exhibit, we've also made a proposal for amendment to the bill just to try and restrict its scope to include the targeted problem, which is the tanning itself. You're well aware—and you've heard from the Canadian Cancer Society—that's what the other provinces have done as well; they've used the words "for tanning."

We're concerned about the scope of it. We've cited some of the research. If you're using a nail gel lamp, you would have to use it for the equivalent, depending on the apparatus, of 2.4 hours to 22.4 hours to get the equivalent of one session in a tanning bed. It's used for 10 minutes per hand every two weeks to four weeks, and some people only get them done a couple of times a year. This is what we're concerned with.

As well, when you look at the administration of the act and the notices of operation and the carding of people who enter the nail salon, whether they're actually or apparently under the age of 25 years—totally non-scientific: I did a Canada 411 search and got 842 phone numbers for nail salons in Toronto. Our best guess within the industry is that there are 5,000 nail salons in Ontario. How many manicurists—what we call nail techs—work in a nail salon? We have no idea, but basically—

The Vice-Chair (Mrs. Donna H. Cansfield): One minute, sir.

Mr. Gordon Greenwood: Thank you.

Basically, what we're concerned with is that the reporting requirement, first of all, will be terribly onerous, that the scope of the act among the 5,000 salons—expand that to the number of nail techs, the carding of it—in an industry which, we submit, is not the target of this legislation. What we're asking for is the insertion of the words "for tanning" after the word "treatments."

Thank you, Madam Chair.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much, sir. To the New Democratic Party.

Ms. Peggy Sattler: Yes. I wanted to ask you: Are you a national association or just Ontario?

Mr. Gordon Greenwood: It's a national association.

Ms. Peggy Sattler: So in the other jurisdictions that have legislation governing tanning beds, do they use that phrase "for tanning"?

Mr. Gordon Greenwood: No, they do not. Sorry. They use the phrase "for tanning." It does not cover the nail industry. Nova Scotia, New Brunswick and Quebec use "for tanning." Yes, they use the words "for tanning."

Ms. Peggy Sattler: They do use it? Okay. Thank you.

Mr. Gordon Greenwood: I'd like to say I was creative and came up with it myself. I wasn't.

M^{me} France G  linas: What percentage of your customers right now are people under the age of 18? Just to give me an idea.

Mr. Gordon Greenwood: That's very hard to tell. It's not monitored. When I went out and tried to ask that question, they said it's basically the prom, the graduation or they're in the wedding party somewhere. It's expensive, so you're not going to be doing it every two weeks. You're not going to get the 10 minutes every two weeks or a month. It is expensive; it's kind of a treat. But it's very hard for us to come up with a figure like that. I'm sorry.

M^{me} France G  linas: And what percentage of a nail technician's time would be spent on doing gel nails versus the other types of manicure and nails?

Mr. Gordon Greenwood: Again, it's hard to put a percentage, because that tends to be dependent upon where the salon is. In the lower-income areas, it would tend to be the regular manicures. Where there's more disposable income—as I said, the best number we could come up with is that, in the last three to five years, it has tripled, the number of gel manicures and the popularity of it.

M^{me} France G  linas: Because you're coming at the eleventh hour, and I know nothing about gel nails, how do I know that the nail technician does not get exposed to those 10 minutes 30 times a day, five days a week?

Mr. Gordon Greenwood: We have referred to the research for that in our papers. We have included the citation. Drs. Sayre and Dowdy were doing two things: They were looking at the consumer and they were looking at the workplace. If you can envision this as a nail machine, the tech is on the other side. The technician is not exposed.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much, Mr. Greenwood.

Mr. Gordon Greenwood: Thank you.

The Vice-Chair (Mrs. Donna H. Cansfield): I'm sorry; I don't know who is going to speak. Mrs. Elliott?

Mrs. Christine Elliott: Yes. Thank you, Chair.

Thank you very much, Mr. Greenwood. As a matter of fact, is it possible—if I'm not mistaken—that you

can actually buy the little machine that you can cure the nails in in a place like a pharmacy, like Shoppers Drug Mart or some place like that?

Mr. Gordon Greenwood: There are those. Unfortunately, you can buy almost anything on the Internet. We don't view it to the extent that the tanning bed industry was talking about with the self-tanning, but yes, there are certain of these apparatuses that are available for home use as well.

Mrs. Christine Elliott: So it's readily commercially available, not just in salons?

Mr. Gordon Greenwood: Yes, but again, doing gel nails is a skill. I guess it depends on what quality of work you want done. But yes, those things are available. Unfortunately, you can get them on eBay or Kijiji or whatever.

1700

Mrs. Christine Elliott: To your knowledge, is there any opposition to the amendment that you're proposing? Have you discussed this with the cancer society, for example?

Mr. Gordon Greenwood: We haven't discussed it with them. We made submissions to the ADM a few months ago. When nail gel lamps were coming out, there was a piece of research that was done that gave rise to a lot of flak. What happened with those researchers is that their peers got very upset and wrote very nasty articles about the quality of their research. Studying two people who have already had cancer wasn't really considered very scientific. As well, our clients received a piece of research from someone else who said it would take 250 years to reach that point, which is why Drs. Dowdy and Sayre were commissioned to do a proper study of it and come out with the results that I've told you and that we cite in our submission.

Mrs. Christine Elliott: Thank you. Perhaps it's unfortunate that the Canadian Cancer Society has already given us their views of things, but perhaps they can give us some feedback on that as well.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much. Ms. Jaczek.

Ms. Helena Jaczek: Yes, thank you, Chair. Thank you very much for coming, Mr. Greenwood, and producing such a comprehensive document and the details and so on. With the other jurisdictions following the wording, as you have suggested, for tanning, I'm sure this is something we'll take back and look at very seriously, so I would simply like to thank you for your presentation.

Mr. Gordon Greenwood: We certainly appreciate the time.

The Vice-Chair (Mrs. Donna H. Cansfield): Ms. Damerla?

Ms. Dipika Damerla: Thank you, Mr. Greenwood. It's good to see you again.

Mr. Gordon Greenwood: My pleasure.

Ms. Dipika Damerla: Just a quick question: The bandwidth or whatever of the UV rays that are used

for gel whatever-you-call-it is very different from that which would be used in a tanning salon. My understanding is that these rays do not tan your skin, right? I just wanted to get some sense of the difference. They're all UV rays.

Mr. Gordon Greenwood: Yes, and as the researchers had said, UV nail lamps are not like tanning beds. In another one of the quotes, they said it's "safer than natural sunlight and sun lamps," and it's "highly improbable that even the most dedicated nail salon client or avid home user would approach" a level of exposure which would cause any concern. So yes, it's the bandwidth, it's the spectrum, it's the duration of usage and it's the convenience. It would just take too long for someone to try to use that to tan.

Ms. Dipika Damerla: If you use it long enough, it could, but you're saying the 10-minute duration—

Mr. Gordon Greenwood: A 10-minute duration every couple of weeks is going to take forever. One of the things they said was, if you were to sit there for 22.4 hours, you might get some sort of a tanning effect from it.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much, Mr. Greenwood, for your presentation.

PEEL PUBLIC HEALTH

The Vice-Chair (Mrs. Donna H. Cansfield): Our next presenter is Dr. David Mowat, who's the medical officer of health for Peel Public Health. Dr. Mowat, I will give you a heads-up with a minute to go, sir.

Dr. David Mowat: Madam Chair, members of the committee, I'm Dr. David Mowat. I'm the medical officer of health of the region of Peel. I have with me Paul Callanan, who's our director of environmental health.

The region of Peel serves the 1.3 million residents of Mississauga, Brampton and Caledon. First, let me say that the public health community as a whole strongly supports this bill. You will have received a written submission from our association, the Association of Local Public Health Agencies, which in fact passed a resolution supporting like legislation in 2006.

You've already heard from the cancer society about the very compelling health and medical reasons why this is needed. I will not repeat them, but the region of Peel was the first health unit in Ontario to pass its own regional bylaw regulating tanning salons, so we're here to offer you some of our experience, as it may be relevant to this legislation.

Our bylaw was passed almost exactly a year ago and was effective January 1 of this year. To sum it up, implementation has been successful. There's widespread support. We were very quickly able to educate our 68 tanning premises and have undertaken inspections without any problems.

Based on our experience, a few points about the bill: The first one concerns the "ultraviolet light treat-

ments" designation. We use the "for tanning purposes" language in our bylaw, which has worked satisfactorily so that gel manicures are not caught. More important, however, would be medical, therapeutic use of ultraviolet radiation—for example, treatment of newborn jaundice—so there should be language that excludes the therapeutic use of ultraviolet radiation.

Concerning enforcement, I understand that there is an intent that this would be enforced through health units, and of course we are already doing that with no problems. There is a concern, however, about the enforcement of the advertising provisions, because that is outside the normal scope of the work of a health inspector, and we would certainly need specific guidance, training and help with resources to undertake that were it to be vigorously and proactively enforced.

Another issue is around the comprehensiveness of the protection. Our bylaw does make mention of protective eyewear, which might be added to the legislation. We also prohibit use in residential dwellings. We have, in fact, found people who run this out of their home or in the bedroom, which we don't think is a good idea. And we do have provision around the self-serve issue. The issue there for us is that tanning beds should always be monitored and under the control of an attendant. There are very few in places like condos, but mainly they're in gyms.

The Vice-Chair (Mrs. Donna H. Cansfield): Dr. Mowat, you have one minute, sir.

Dr. David Mowat: Thank you.

We do think that it is necessary for an attendant to always be in control of the equipment if we're serious about denying access to minors.

We've applied to use the Provincial Offences Act with the set fines provision for ease of enforcement, as we do with lots of other things that we do in public health, and we would recommend that there be a provision that would allow that.

Lastly, we understand that a lot of this will depend on the regulations, and we would certainly welcome an opportunity to participate in any consultation about the specific regulations. Thank you.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much, Dr. Mowat. We'll start questions. Mr. Yurek.

Mr. Jeff Yurek: Thank you, Doctor, for coming in today. Just commenting on the enforcement of the advertising and marketing provisions, you were earlier requesting more resources with regard to enforcing advertising inside and outside of the tanning facility. This is just a general question: You already have tobacco enforcement officers on staff; would it not just be a cross-training issue between a health inspector and a tobacco enforcement officer? They already look after advertising and displays.

Dr. David Mowat: Well, yes. Most of the tobacco enforcement people are, in fact, health inspectors across the province. I think the problem there is that

we are already inspecting several hundred tobacco—Paul, what is the number?

Mr. Paul Callanan: It's approximately 750 in Peel.

Dr. David Mowat: It's 750 tobacco outlets. Our funding is very constrained for this and we have very great difficulty meeting the requirements of the ministry already in doing that, and it's difficult to see how we could do this. I think it's the kind of thing where we need to talk more about it. I don't know what we'd do about an ad that we see passing on the side of a bus, for example—that kind of thing. It's a little more difficult, I think, than tobacco.

1710

Mr. Jeff Yurek: Enforcing the signage inside a tanning facility and such?

Dr. David Mowat: No. The signage inside the tanning is covered in the Peel bylaw, and that is, the signage is inspected when we go into the premises. So my concern is—my reading of the bill covers advertising; say, an ad in the paper or a poster or anywhere. How would we enforce that?

Mr. Jeff Yurek: I'm just bringing up this concern, because the bill is going to pass, and if there's going to be a fight over resources, I'm just—I come from small business, and when something new comes into the business and we don't have the money because there is no money left in the province's finances for new programs, we cross-train. I'm just throwing that out to you, that not all your health inspectors are tobacco-enforcement officers. If there's a way to use what you have in cross-training inside the facility, it might actually save quite a bit of money throughout the province's health units in order to get this implemented and fully actioned, so we don't get bogged down with fighting: "There's no money. There's no money. We can't do it without money." I want to make sure that's taken care of.

Dr. David Mowat: Okay, to be clear, under our bylaw, our health inspectors currently inspect the advertising within the business—no problem. Advertising in the media, for example, would be difficult for us.

Mr. Jeff Yurek: Okay.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much, Dr. Mowat.

Could you introduce yourself, sir, for the record, for Hansard?

Mr. Paul Callanan: Yes. My name is Paul Callanan, director of environmental health.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much. Ms. Damerla, you're going to ask the questions? Please go ahead.

Ms. Dipika Damerla: Thank you so much, Dr. Mowat, for coming, and congratulations for Peel being a leader on this issue.

I just wanted to follow up on MPP Yurek's question. Your concern is that, the way the bill is worded now, enforcement of advertising could be much broader than just inside or outside the location. It

could also capture television ads or radio ads or whatever. That's your concern, right?

Dr. David Mowat: Correct.

Ms. Dipika Damerla: Just so we understand and we can address that, if required.

My second question is—you said that Peel already addresses the issue of self-tanning. Could you just drill down a little bit more to say how exactly you address that? You said "by requiring an attendant all the time;" I understood that, but what do you do when it's in a condominium or it's in a 24-hour nightclub, where they may not be supervised at 2 in the morning?

Mr. Paul Callanan: That hasn't been an issue in Peel. For example, in a health club, where, previously, people could come in and use tanning facilities, they have an attendant now, so it hasn't been an issue.

Ms. Dipika Damerla: So that's how you've gotten around that. Okay. I don't have any more questions, but if my colleagues have—

Ms. Helena Jaczek: I'll simply say welcome to the committee. You and I have known each other for many, many years.

Dr. David Mowat: We have.

Ms. Helena Jaczek: Congratulations to Peel on bringing in your bylaw.

Dr. David Mowat: Thank you.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much, gentlemen, for your presentation.

Ms. Gélinas?

Interjection.

Ms. Peggy Sattler: Yes, I had a question. Thank you very much for the presentation, Dr. Mowat. I noticed that the bylaw in Peel included some provisions about sanitation of the equipment.

Dr. David Mowat: Yes, it does.

Ms. Peggy Sattler: However, in your presentation to us, you made a recommendation about including eyewear, but you didn't make a recommendation about the sanitation provisions. I wondered why you didn't include that in the recommendations.

Dr. David Mowat: It could be included, or it could also be said to be included under our personal services provisions within the Ontario public health standards, in any case. The fact is, regardless of what happens about this bill, when it comes to sanitation in personal service settings, public health is required, under the Ontario public health standards, to ensure that those standards are maintained, in terms of sanitation, anyway.

We happen to have repeated them in our bylaw. We thought, for the sake of simplicity, it wouldn't be necessary to spell that out in this bill. Obviously, we do support sanitary practices in tanning salons.

Ms. Peggy Sattler: If I could just ask you a question about the use of protective eyewear: How important do you think that is to be incorporated in this bill?

Dr. David Mowat: I think that's important and should be included. There are hazards—for example,

the creation of cataracts after prolonged UV exposure—that should be addressed, and most of the industry does that anyway.

Ms. Peggy Sattler: Thank you.

M^{me} France Gélinas: How long did it take you, between the time when the board of health passed it and the time that you had rolled it out to all 68 premises in Peel?

Mr. Paul Callanan: It didn't take very long at all. We did an educational visit wherein we introduced the bylaw and provided signage to operators, and the next visit was an enforcement visit—so perhaps two months.

M^{me} France Gélinas: So the bylaw came, and within two months, everybody in Peel was compliant?

Mr. Paul Callanan: Yes.

M^{me} France Gélinas: Wow, this is remarkable. What was your biggest challenge during that period of time?

Mr. Paul Callanan: There were some concerns about how it might affect business, but I wouldn't say that more than four or five operators expressed those concerns.

M^{me} France Gélinas: When it comes to advertising, at the time when I had first written the bill, I really had the proms in my riding—almost every tanning salon advertised in the yearbooks for graduates. I don't want them to do that anymore because this is targeted marketing to the population that is to be banned. Did you have a look at that at all? Is this something that happens in Peel?

Mr. Paul Callanan: I don't know. No, it's not something that we looked at.

Dr. David Mowat: That could be handled on a complaint basis, and that would be sufficient. We could certainly cope with that.

M^{me} France Gélinas: Did you have any issues with educating the residents of Peel regarding your new bylaw?

Dr. David Mowat: No. It was covered in the news media, and there was a positive reaction to it, with some exceptions. Really, people just accepted this, and we have not had any negative feedback.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much for your presentation.

UVALUX TANNING AND SUPPORT

The Vice-Chair (Mrs. Donna H. Cansfield): Our next guest is Uvalux Tanning and Support: Mr. Nik Van Haeren, president. You have five minutes, sir, for your presentation. I'll give you a heads-up at four, and then we'll start the questions with the Liberals.

Mr. Nik Van Haeren: Good afternoon. My name is Nik Van Haeren. I'm the president of Uvalux Tanning and Support. We are Canada's leading provider of spa supplies to the indoor tanning industry, as well as UV tanning equipment.

For those of you who are unfamiliar with our story, which is likely most of you, we were founded over 30 years ago in Woodstock, Ontario. Since that time, our business has grown to become a really significant contributor within our local economy and our local community. We have over 50 direct employees in Woodstock and close to \$20 million in revenue, and all of this gets injected every year into Woodstock and the surrounding area.

We've also used our tanning business to expand into other local businesses as well. This includes a world-renowned solar thermal manufacturing company, a nationwide construction concern, and my personal pride and joy: a five-star long-term-care facility. However, the core of my business and my passion remains within the indoor tanning sector, and that's why I'm here today.

From the outset, I would like to make it very clear that I am in support of the speedy passage of Bill 30. The salon sector, which I'm very proud to work closely with, would also like new rules to be enacted fairly as well as quickly. That said, there are elements of the bill that do need a second look here at committee if we want to get it right, and we do have a unique opportunity to do that.

The most pressing issue was raised earlier by my colleague Steven Gilroy, and that's the issue of self-serve tanning. To support that, as a supplier, I've already seen an increase in the inquiries on self-serve systems. This is including, recently, one major US chain that has expanded into the Canadian market. To date, I have refused to enter that side of the business because, to be frank and honest, I have significant concerns about how UV light is administered to the clients in these facilities.

1720

Now, should they become the industry norm, such as they have in Sweden and England, then not only will teens have a loophole to continue to access these salons, but adult customers will also be at risk. This is why I feel it is so important—and strongly—that we must ensure that professionalism remain and professionals remain in control of UV equipment.

As well, it should be noted the definitions in this act require clarity. As Steve mentioned, as it stands, if I read it correctly, the bill will also prohibit youth from accessing spray-tanning facilities. This seems to run contrary to the purpose of this legislation, and there is no suggestion from any side that spray tanning leads to any higher incidences of melanoma. Because of this, I believe that we have to take the time to ensure that the affected equipment is clearly defined under the act, as in the example with UV gel nails. I also ask the committee to ensure that the definition in the legislation is similar to what other provinces have done.

In closing, I'd like to thank the committee today for their time, the opportunity to speak and for consideration of the points that I have raised. I am absolutely pleased to take any questions you may have.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much, sir. We'll start with Mr. Fraser.

Mr. John Fraser: Thank you very much for your presentation. Thanks for coming here today. Just a quick one to start off: Do you produce any products that focus on youth in terms of—

Mr. Nik Van Haeren: Like a pink tanning bed for youth? No.

Mr. John Fraser: No, but—so that's not something that's inside your industry?

Mr. Nik Van Haeren: No. We don't target youth in any way.

Mr. John Fraser: What do you see as the impact of these restrictions on your business?

Mr. Nik Van Haeren: Very small, and actually positive. I'm a fan of bringing professionalism to our industry.

Mr. John Fraser: Okay. Thirdly, inside the bill there's a provision to make sure that patrons are identified. Do you feel that that's not strong enough?

Mr. Nik Van Haeren: No, I don't feel that's strong enough. Currently, there are self-serve tanning salons that operate within gyms. If somebody is a gym member, they could identify themselves, and I know that key tags and memberships very easily get passed along and passed around.

Mr. John Fraser: In terms of taking a look at your industry, what's the makeup between self-serve tanning and tanning salons?

Mr. Nik Van Haeren: I would concur with Steve that about 20% of the beds in Ontario are self-serve. Now, depending on how this bill changes and as the industry evolves and professionalizes, that's changing. But if we don't make the proper changes now, it could change in the wrong direction.

Mr. John Fraser: Thank you very much.

The Vice-Chair (Mrs. Donna H. Cansfield): Are there any further questions? Thank you very much. Ms. Gélinas? Ms. Sattler?

Ms. Peggy Sattler: Yes. Thank you for your presentation.

Mr. Nik Van Haeren: Thank you.

Ms. Peggy Sattler: You mentioned tanning professionals. Is there a certification or something, a designation for the people who are operating the machine?

Mr. Nik Van Haeren: Yes, we do have a certification program. It's actually a three- or four-hour course—I can't quite recall—with testing and requirements and things like that afterwards.

Ms. Peggy Sattler: Is that what the earlier presenter was referring to as Smart Tan-certified?

Mr. Nik Van Haeren: Yes, but as things have evolved and changed, the certification has become more comprehensive, I think, as time goes on.

M^{me} France Gélinas: In the certification program, do you cover at all skin types, as in "type 1 should never be using tanning beds," etc.?

Mr. Nik Van Haeren: Yes, we do.

M^{me} France Gélinas: And what do you say about them, exactly?

Mr. Nik Van Haeren: We typically try to go to asking them particular questions about their heritage, their natural skin tone and how easily they tan outside. We've also developed a series of questions that salon owners can use that, as long as tanners fill it out appropriately, can help them determine what the proper skin type would be.

M^{me} France Gélinas: So for you, you feel the bill should be stronger. Some of the language that has been suggested was using "for tanning."

Mr. Nik Van Haeren: Yes.

M^{me} France Gélinas: Would that be sufficient for you to—or the first one that you brought that has to do with not targeting the spray tan?

Mr. Nik Van Haeren: Yes. I feel that that should be good.

M^{me} France Gélinas: That should be enough?

Mr. Nik Van Haeren: Yes.

M^{me} France Gélinas: And when you talk about "clearly defined," have you got something else that you want changed in the wording of the bill, or would simply adding "for tanning" cover it all?

Mr. Nik Van Haeren: I also want to make sure that we're clear to avoid any self-serve or coin-operated tanning beds.

M^{me} France Gélinas: Okay, and that comes by adding that the person who checks should also be doing the monitoring and should be the attendant?

Mr. Nik Van Haeren: Yes, and timers outside the rooms and things like that. I believe we provided wording or suggestions to wording that might be appropriate for that.

M^{me} France Gélinas: Okay. Thank you.

The Vice-Chair (Mrs. Donna H. Cansfield): Ms. Elliott?

Mrs. Christine Elliott: Thank you very much, Mr. Van Haeren, for coming to speak to us today. I think you've raised some important points. We've heard some information about the coin-operated, self-serve tanning option. I gather that this is a relatively recent phenomenon, that this is something that hasn't really caught on hugely in Ontario yet, but you can sort of see it coming down the line. Is that fair to say?

Mr. Nik Van Haeren: Actually, coin-operated tanning was around before professional tanning salons were around. The industry and the business originally started with coin-operated tanning beds or a coin-operated bed in the back of a fitness facility or a hair salon or something else to that effect. It's as the business has evolved over the years that professional tanning facilities have come and the increase in professionalism. My fear is that this bill could set some of that forward motion back.

Mrs. Christine Elliott: Thank you.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much for your presentation.

Mr. Nik Van Haeren: A pleasure. Thank you for your time.

The Vice-Chair (Mrs. Donna H. Cansfield): One of our other guests has been delayed—it seems that there has been a significant collision on the 401, a fatality—and he's stuck in traffic. Mr. Domino is here, so we're just going to check on his availability—a few minutes, and the reason is because at 5:45 we have a vote in the House. We'll just wait a moment. We'll recess. I think the gentleman is on his way, so if you'd like to take a five-minute recess. I'll put the timer on.

The committee recessed from 1727 to 1731.

CANADIAN COSMETIC, TOILETRY AND FRAGRANCE ASSOCIATION

The Vice-Chair (Mrs. Donna H. Cansfield): Our guest has arrived. Take a deep breath. Would you like a glass of water?

Mr. Darren Praznik: Oh, I would love one, please. My apologies. Today is a terrible day for accidents in our province—the terrible tragedy in Ottawa, and we had a major rollover on the 427 on the northbound cut-off. I saw the car that was sort of crushed underneath, and it has backed traffic up. It was over two hours to get here from Mississauga, so my apologies.

The Vice-Chair (Mrs. Donna H. Cansfield): Oh, don't apologize, please. We understand. I'm going to take the prerogative of the Chair and say, sir, there are no accidents; it's a collision. Accidents are preventable.

Mr. Darren Praznik: You know, you're absolutely right. As a former highways minister in Manitoba, I agree with you.

The Vice-Chair (Mrs. Donna H. Cansfield): And as a former Minister of Transportation in Ontario, we're on the same page.

Mr. Darren Praznik: Absolutely, absolutely.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much, Mr. Praznik. You're here on behalf of the Canadian Cosmetic, Toiletry and Fragrance Association.

Mr. Darren Praznik: Yes.

The Vice-Chair (Mrs. Donna H. Cansfield): And Mr. Domino is with you as well, who is consultant advocate.

Sir, I will let you know that you have five minutes for a presentation. At four, I'll sort of give you a bit of a heads-up.

Mr. Darren Praznik: I will be very brief because I think my colleague from the Allied Beauty Association addressed much of the same issues. I have a presentation. I'm not going to read it. Having been on that side of the table many times in another jurisdiction, I appreciate your time. I've provided it basically to give a summary.

The points that I wanted to make—first of all, our association represents the personal care products industry in Canada: manufacturers, distributors, retailers

of personal care products. Our interest in this bill is really twofold. Generally speaking, we're very supportive of efforts to protect people from damage to their skin. Our industry is the major producer—our member companies, in fact, have sun protectants, both primary and secondary. So anything that works towards legitimate protection from the sun is certainly good public policy. I wanted to say that.

Our one concern with this bill is the broad definition given to ultraviolet light. As my colleague from the Allied Beauty Association pointed out, there is a particular line of nail products that requires a heat treatment to dry, and those particular products, we feel, could be caught under the wording of this bill, particularly the lights that are used for drying. So our concern is that—in our discussions with the department, with the minister's office, we believe that this was really an unintended consequence of the drafting of the bill.

Just to provide certainty, we would certainly ask members of the committee to consider amending or to consider such amendments as would allow for greater certainty. We understand as well that there may be certain medical uses for ultraviolet light that might be caught in this bill as well, so you probably have some issues to consider, and we'd hope you'd consider ours.

One issue that I would like to cover under that, and I've distributed a copy of a summary of a number of studies that were done with respect to these lamps for—I'm still catching my breath. I must exercise more, Madam Chair. I'd like to tell people that I'm 85 and I use good product, but that simply is not quite true.

We provided a copy from Doug Schoon of a summary of the various studies that have been done with respect to these lights for drying nails and the risk factors, and I think all of the evidence suggests it's a much different scenario than what you're considering with respect to tanning.

In asking you to look at a means of exempting these types of products, we would be remiss and you would be as well if you didn't at least look to the safety elements. There is a fair bit of work done in this area that I think demonstrates that the amount of sun or light provided for the drying of fingers is the equivalent to, I think, about two minutes of daily exposure for the time you would do it, so it's very minimal.

I also spoke with Dr. Schoon this morning in anticipation of today's hearing and I asked him if in any of those studies there was a difference or concern with respect to younger people's exposure to these lamps, and he indicated that the amount of light was so small that that was not a safety risk for younger people.

So again, we're asking for clarification around the definition to ensure that there are not unintended consequences or unintended lights that are included in this particular legislation. I think we've provided scientific information to clearly distinguish that—

The Vice-Chair (Mrs. Donna H. Cansfield): One minute, sir.

Mr. Darren Praznik: —and that would be our request. Whether that be done by a clarification on the wording with respect to ultraviolet light or a regulatory power to be able to deal with issues as they come up—I think either would work, as long as there was some means to address this particular issue in a reasonable fashion.

I think, as Mr. Greenwood pointed out, there's an estimate of some 5,000 nail salons in Ontario alone—probably in every one of your ridings you have them—and to add an administrative burden in an area that wasn't intended would probably not be the best use of public resources.

So that's really a summary of our presentation. Thank you for allowing me to speak today, Madam Chair.

The Vice-Chair (Mrs. Donna H. Cansfield): My pleasure, sir. Ms. Gélinas? Ms. Sattler?

M^{me} France Gélinas: Would you know what percentage of the nail salon business deals with gel nails?

Mr. Darren Praznik: I wouldn't specifically. Mr. Greenwood would probably have a better sense of that, but I can tell you that it's a growing area in the marketplace because, from what my members who produce this product tell me, in fact, it lasts longer and better. So there's quite a degree of consumer interest. The number of young people accessing it overall would probably be a very small number at the end of the day.

M^{me} France Gélinas: I don't know if you call it “cure,” but is there any other way to cure this product than to use UV? Could we use an oven or a little fan?

Mr. Darren Praznik: Well, I think the real issue here, and in all safety assessments is: Is there a risk involved with the use of this product or this method? I think the studies that we've pointed out in that summary suggest to you that the amount of light—this is not like a tanning situation. We fully appreciate what the government is trying to do in addressing tanning because, as an industry that does a lot of work in sun protection and skin care and anti-aging of skin, we understand exactly what you're getting at. But I think when you analyze this particular product and this particular method you find the risk is minimal at best—the equivalent of probably going out in the sun for an extra two minutes a day on the day you're actually having your nails done. That would be an insignificant risk. That's really the question: Do you want to capture something in your bill that poses no reasonable risk to any user, as opposed to looking for other methods that may or may not work? Today, to my knowledge, there really isn't an alternative.

M^{me} France Gélinas: I'm always reluctant to change words in a bill that restricts. I have been burned before with words in banning cigarillos. The ink on the bill was not even dry and the industry had

found a way around it. I don't think that will happen in this case, but I'm still reluctant. So you would be comfortable with making that a regulatory regime, where basically we would not capture nail salons and we would focus on tanning salons?

Mr. Darren Praznik: Yes. First of all, I don't think the industry here is looking for a way around a problem. I don't think it's been established, even in the materials that came out on the bill, that there was, in fact, a problem in this area. I think it's gotten captured by a broad definition. But to your specific question, absolutely. I've sat on that side of the table having to write legislation, and we don't know what we don't know today. Things change, and I think any good legislation needs to have flexibility, and the regulatory process does that. It allows us to adjust to circumstances.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much. Ms. Elliott?

Mrs. Christine Elliott: Thank you very much for coming before the committee this afternoon, Mr. Praznik. I think that you have made a good case for what you're stating. Certainly, we will be taking that into consideration. We really are grateful for you making it here and safely, thank goodness, despite the considerable difficulties in getting here. We will certainly take what you've presented to us today very seriously.

Mr. Darren Praznik: Thank you, and my puffing is nowhere what those were feeling who were in those accidents. I think all our hearts go out to them.

Mrs. Christine Elliott: Absolutely. Thank you.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much. Ms. Jaczek?

Ms. Helena Jaczek: It's great to see you again, Darren. I'm hoping you and the family will be at my barbecue on Sunday, as you are my constituents, and maybe I can do a little public health intervention at the same time regarding the shortness of breath.

I'm going to simply echo Ms. Elliott's comments. I'm sure that the study that has been referenced both by you and by the Allied Beauty Association is going to be reviewed very carefully in terms of, of course, ensuring that there is no harm from UV radiation used very briefly for gel manicures. I understand your concern regarding the need to specify that in this case we're talking about UV radiation for tanning purposes.

Mr. Darren Praznik: Thank you very much.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much for your presentation. We're delighted you were able to get here safe and sound.

Mr. Darren Praznik: Thank you, and I must tell you, it's great to be a citizen of Ontario now, living in this province for 10 years.

The Vice-Chair (Mrs. Donna H. Cansfield): I might encourage you to move to Etobicoke Centre.

Thank you, sir. This meeting is adjourned.

The committee adjourned at 1742.

CONTENTS

Wednesday 18 September 2013

Subcommittee reports	G-221
Skin Cancer Prevention Act (Tanning Beds), 2013, Bill 30, Ms. Matthews / Loi de 2013 sur la prévention du cancer de la peau (lits de bronzage), projet de loi 30, Mme Matthews	G-222
Lupus Foundation of Ontario	G-222
Ms. Margaret Moroz	
Joint Canadian Tanning Association.....	G-224
Mr. Steve Gilroy	
Canadian Cancer Society	G-227
Ms. Joanne Di Nardo	
Ms. Kate Neale	
Allied Beauty Association.....	G-229
Mr. Gordon Greenwood	
Peel Public Health.....	G-231
Dr. David Mowat	
Mr. Paul Callanan	
Uvalux Tanning and Support	G-233
Mr. Nik Van Haeren	
Canadian Cosmetic, Toiletry and Fragrance Association	G-235
Mr. Darren Praznik	

STANDING COMMITTEE ON GENERAL GOVERNMENT

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M^{me} France Gélinas (Nickel Belt ND)

Ms. Helena Jaczek (Oak Ridges–Markham L)

Also taking part / Autres participants et participantes

Mrs. Christine Elliott (Whitby–Oshawa PC)

Clerk / Greffière

Ms. Sylwia Przedziecki

Staff / Personnel

Ms. Heather Webb, research officer,
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G23



G-16

G-16

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Deuxième session, 40^e législature

Official Report of Debates (Hansard)

Monday 23 September 2013

Journal des débats (Hansard)

Lundi 23 septembre 2013

**Standing Committee on
General Government**

**Skin Cancer Prevention Act
(Tanning Beds), 2013**

**Comité permanent des
affaires gouvernementales**

**Loi de 2013 sur la prévention du
cancer de la peau (lits de
bronzage)**



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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Monday 23 September 2013

Lundi 23 septembre 2013

*The committee met at 1413 in committee room 2.*SKIN CANCER PREVENTION
ACT (TANNING BEDS), 2013LOI DE 2013 SUR LA PRÉVENTION
DU CANCER DE LA PEAU
(LITS DE BRONZAGE)

Consideration of the following bill:

Bill 30, An Act to regulate the selling and marketing of tanning services and ultraviolet light treatments /
Projet de loi 30, Loi visant à réglementer la vente et la commercialisation de services de bronzage et de traitements par rayonnement ultraviolet.

The Chair (Mr. Grant Crack): Okay. I'd like to call the meeting of the Standing Committee on General Government to order. I'd like to welcome members from all three parties.

Ms. Dipika Damerla: I can't hear you.

The Chair (Mr. Grant Crack): Pardon me?

Ms. Dipika Damerla: I can't hear you.

The Chair (Mr. Grant Crack): You can't hear me? Okay, so I'll speak directly in.

We're here this afternoon to discuss Bill 30 clause-by-clause, which is An Act to regulate the selling and marketing of tanning services and ultraviolet light treatments. I would ask if there are any questions or comments regarding any amendments to any of the sections of the bill, and, if so, which sections. Madam Scott?

Ms. Laurie Scott: Thank you. It's been a long time since I've done this here. Do I just move section 1 of the bill, definition of "tanning," or do you want me to do more of a formal address?

The Chair (Mr. Grant Crack): I guess what we're doing is just a preliminary discussion on anything with regard to the bill. So if there are any general questions before we get into the section aspect, we welcome those.

Mr. John Fraser: Just one question I have in front of me right now is—

Interjection.

Mr. John Fraser: Oh, sorry. That's fine. I've got it right here. That's good. Thank you. I don't need to ask the question.

Mr. Rick Bartolucci: Okay, maybe just one quick one. I'm a sub on this committee, so excuse my ignorance. But, if, for example—let's take the first PC recommendation, the first motion. If we think that this could be

served by regulation, what do we ask? Do we ask someone to clarify or verify, and then would we vote on whether we would accept it as an amendment, or vote it down and put it in as a regulation? How does it work?

The Chair (Mr. Grant Crack): Madam Clerk or legal counsel?

Mr. Ralph Armstrong: Hi—

Interjection.

Mr. Ralph Armstrong: Don't push the button; I get it.

Ralph Armstrong, legislative counsel office. In the normal course of events—and it's been a while, I think, since any of us have done this—the motion is moved, would be put up for discussion, and I might be asked, or ministry staff or legal counsel might be asked, to express an opinion on how best this would be served. Depending upon how the committee felt about the response, they would then vote. So if the issue is, "Could this be done by regulation," and our advice is, "Yes, it could," the members would decide whether they would vote for the motion or not, depending on how they felt about it.

Mr. Rick Bartolucci: Thanks.

The Chair (Mr. Grant Crack): Thank you, Mr. Armstrong.

If there are no further questions, we'll move to Ms. Scott.

Ms. Laurie Scott: Sylwia, just correct me if I'm wrong.

I move that section 1 of the bill be amended by adding the following definition:

"'tanning' does not include spray tanning; ('French')"

The Chair (Mr. Grant Crack): Any debate on that particular amendment? Madame Gélinas.

M^{me} France Gélinas: I think member Bartolucci was psychic, because that would be my first question. I would ask Mr. Armstrong if you could comment. From a legislative point of view, could this, although I get it, that we're there to regulate UV, which has caused all sorts of problems with young people developing cancer, melanoma etc.—spray tan has not been found to be the same thing, but I'm reluctant to put it into the bill if I could simply put it in regulation. It is clear that that's not what we're after. We're after the UV beds. But I wanted your opinion as to whether it could be done in regulation.

The Chair (Mr. Grant Crack): Mr. Armstrong.

Mr. Ralph Armstrong: If you look at clause 8(d) of the bill, one of the powers under making regulations is

“defining, for the purposes of this act and its regulations, any word or expression used in this act that has not already been expressly defined....” “Tanning” and “tanning services” have not been expressly defined, so it would be my opinion that yes, by means of regulation, spray tanning could be removed.

I’d also note that if you look at section 2 of the bill, people who belong to a prescribed class can be exempted, taken out of section 2. It would conceivably be possible to take persons who apply spray tanning services and no radiation tanning services from section 2.

While it is, of course, always a matter for the Legislature and how they want to handle it, yes, it would be my opinion that this goal could be accomplished by regulation.

The Chair (Mr. Grant Crack): Madame Gélinas.

M^{me} France Gélinas: Then, given the legal opinion that was just given to us, spray tanning is not what we’re after and is not harmful, but we don’t know that it will be the same in three years, five years, 10 years, although this bill will still be there. I would feel a whole lot more comfortable sending this message that we want it captured in regulation, but I would be tempted to vote against this motion. I don’t think it needs to be in the bill just in case things change, but I would certainly send a strong message that I expect to see it in regulation. That’s not what we’re after.

The Chair (Mr. Grant Crack): Discussion? Questions or comments?

Mr. Rick Bartolucci: Just a point on that: So that we don’t get into fights over these things, if we can ensure that it’s by regulation, if we advise whomever we advise that this should be by way of regulation, I think the PCs get what they want and we get what we want, except it’s not in the act as a section, but only as a regulation.

1420

The Chair (Mr. Grant Crack): Any further discussion? Madam Scott.

Ms. Laurie Scott: Right now, would someone look at that and say that spray tanning is included, if you do the legalese of it?

Mr. Ralph Armstrong: At the moment it only says “tanning.” Spray tanning is tanning, so it would have to be taken out by regulation.

Ms. Laurie Scott: But we can’t control the regulations at this level, though. We all agree that there’s no need for spray tanning to be in there, right? That’s not our purpose, but it kind of is if we don’t change it.

Mr. Ralph Armstrong: If it’s left as it is, it becomes a matter for the Lieutenant Governor in Council—cabinet—to decide whether to make the regulation exempting spray tanning, yes.

Ms. Laurie Scott: So could someone implement this against a spray tanning—I don’t know; who does spray tanning? Do you know what I’m saying? If the regulation doesn’t follow, could whoever the spray tanning people are be fined?

Mr. Ralph Armstrong: Without a regulation exempting it, I can’t say what would happen, because

courts are courts. They might decide that the real purpose of this was about ultraviolet and not spray tanning; I can’t say for sure. But on its face, it applies to all tanning services without spray tanning being removed. That’s why a regulation would be needed.

The Chair (Mr. Grant Crack): Any further discussion? Is there a motion to amend?

M^{me} France Gélinas: She moved it already.

Ms. Laurie Scott: I already moved the motion, right? That tanning does not include spray tanning.

The Chair (Mr. Grant Crack): Okay, one more time: Any further discussion? Those in favour of the motion? Those opposed? The motion is defeated.

Very good. Continue.

Ms. Laurie Scott: I move that the definition of “ultraviolet light treatments” in section 1 of the bill be struck out and the following substituted:

“‘Ultraviolet light treatments for tanning’ means treatments involving the application of ultraviolet light to humans for tanning.”

Again, just a technicality in wording.

The Chair (Mr. Grant Crack): Okay. For clarification, this is section 2?

Mr. Rick Bartolucci: Yes, it’s motion 2.

Ms. Laurie Scott: I believe it’s section 1 of the bill that I have. It’s the definition of “ultraviolet—

The Chair (Mr. Grant Crack): Very good. Right. Subsection 1. Any further discussion on the motion to amend? If there’s no discussion, those in favour? There are none opposed. The motion is carried.

Ms. Laurie Scott: Under subsections 2(1) and (2) of the bill, I move that subsection—

The Chair (Mr. Grant Crack): Sorry, as a matter of procedure, I guess what I need to do is request—thanks for everyone’s patience. This is my first time chairing a clause-by-clause—many council meetings, but this is different.

Shall section 1, as amended, carry? All those in favour? It carried.

Thank you for your patience. Madam Scott, sorry to interrupt.

Ms. Laurie Scott: I move that subsections 2(1) and (2) of the bill be amended by adding “for tanning” after “ultraviolet light treatments” wherever it occurs.

Again, this is a housekeeping bill. The intent here is for ultraviolet light treatments.

The Chair (Mr. Grant Crack): Thank you. Ms. Scott has moved an amendment. Is there any further discussion? Those in favour? There are none opposed. The motion is carried.

Shall section 2 carry, as amended?

Ms. Laurie Scott: I have another one.

The Chair (Mr. Grant Crack): We’re not there yet? You’re not done number 2 yet?

Ms. Laurie Scott: Sorry.

The Chair (Mr. Grant Crack): Sorry. We’ll get this right at some point. So the first amendment is carried. Thank you. Second amendment.

Ms. Laurie Scott: I move that section 2 of the bill be amended by adding the following subsection:

“Private dwellings:

“(6) No person who has control of a private dwelling shall permit an individual who is less than 18 years old to receive tanning services or ultraviolet light treatments for tanning in the dwelling, whether for consideration or otherwise.”

I believe this is applying to the warnings we heard about the increase in self-service tanning beds that could proliferate with this bill coming in.

The Chair (Mr. Grant Crack): Thank you. A motion to amend is on the table. Is there any further discussion? Mr. Bartolucci?

Mr. Rick Bartolucci: Chair, I’m just wondering, is this amendment within the scope of this bill or is this outside the scope of this bill?

The Chair (Mr. Grant Crack): Thank you for the question. I’ll pass it to the Clerk at this particular point.

From what I understand, on the face of this, as far as procedure goes, it does not fall within the scope of the actual bill, which deals with the marketing and selling of it. Can the Clerk maybe just clarify, or legal counsel, as to—

The Clerk of the Committee (Ms. Sylwia Przedziecki): It is a procedural issue.

The Chair (Mr. Grant Crack): It is a procedural issue. Maybe the Clerk can better explain it, if that’s possible. Or is that my job?

M^{me} France Gélinas: I think you just did.

The Chair (Mr. Grant Crack): I will agree to rule it out of order, this particular amendment.

Interjection.

The Chair (Mr. Grant Crack): Yes.

Ms. Laurie Scott: So then can I ask before I read this, number 5 of our motions, is that going to be ruled out of order? Or do you want me to read it into the record and then you rule me out of order?

Mr. Rick Bartolucci: I think you have to read it, Laurie.

Ms. Laurie Scott: Is that what you want me to do? Okay.

I move that section 2 of the bill be amended by adding the following subsection:

“Private dwellings

“(6) No person who has control of a private dwelling shall permit an individual who is less than 18 years old”—oh, is it the same thing?

M^{me} France Gélinas: The first one had “for tanning”; the second one doesn’t have “for tanning.”

Ms. Laurie Scott: Yes. I’ll start again.

“(6) No person who has control of a private dwelling shall permit an individual who is less than 18 years old to receive tanning services or ultraviolet light treatments in the dwelling, whether for consideration or otherwise.”

The Chair (Mr. Grant Crack): Mr. Bartolucci?

Mr. Rick Bartolucci: Again, I think Laurie has already alluded to it, that since motion 5 was out of order, I

would think that this might be outside the scope of the bill, but I guess I ask for clarification here.

The Chair (Mr. Grant Crack): As Chair, I will agree that it is outside the scope of the bill and I’ll call it out of order.

Any other amendments?

Ms. Laurie Scott: Is it okay?

The Chair (Mr. Grant Crack): Continue.

Ms. Laurie Scott: I move that the bill be amended by adding the following section:

“No self-tanning

“2.1”—

Mr. Ralph Armstrong: Sorry, ma’am. Sorry.

Interjection.

Ms. Laurie Scott: No, I’m still on 2.1. It says “2(6).” Is that a different section?

The Chair (Mr. Grant Crack): Okay, a matter of procedure once again. We’re dealing with section 2; there was one amendment that carried; there were two that were called out of order. So I will have to ask the committee if section 2 would carry, as amended.

1430

Interjection.

The Chair (Mr. Grant Crack): The first one was.

Mr. Ralph Armstrong: Actually, section 2, as amended, does it carry—as we go through clause by clause. Before we can—

Interjection.

Mr. Ralph Armstrong: Yes, right.

The Chair (Mr. Grant Crack): Fair enough? Okay. Shall the section carry, as amended? All in favour? None opposed. The motion is carried.

Now we’ll move on to the new section, 2.1.

Ms. Laurie Scott: I move that the bill be amended by adding the following section:

“No self-tanning

“2.1 No person who owns an establishment where tanning services or ultraviolet light treatments for tanning are sold, offered for sale or provided shall permit the services or treatment to be provided by a device that does not require the presence of an attendant.”

That goes back, again, to strengthening the bill in regard to the proliferation, possibly, of self-service tanning that we heard has happened in other countries when bills like this are brought in. It’s just another strengthening measure in the bill so that there’s proper watch that no one under 18 is going to tanning beds.

The Chair (Mr. Grant Crack): Thank you. Ms. Gélinas?

M^{me} France Gélinas: I’m happy that we have cleared that we’re now adding a new section. So we’re not replacing section 2; we’re adding a section 2.1. This is what we had tried to do in our amendment, but I’m happy with the language that you’ve used and we will be supporting the motion.

The Chair (Mr. Grant Crack): Any further discussion? Ms. Damerla?

Ms. Dipika Damerla: My understanding is the way it’s—I’m not so much opposed to the idea as to the way

it's worded, that it might be out of the scope of the bill as it was originally envisioned, and I'm wondering if it might be out of order. The NDP has a similar plan, but probably not—

M^{me} France Gélinas: I'm happy with either one, whichever one is ruled in order.

The Chair (Mr. Grant Crack): Maybe I could call upon Mr. Armstrong to provide us with some legal advice.

Mr. Ralph Armstrong: I would have said that both provisions—once again, this is a procedural matter; it's not a legal one. But from the point of view of being within the scope of the bill, I would have said that both the NDP motion about the prepaid machines and this one about the attendant—I would have thought were equally both in the scope of the bill and that they both related to the marketing and selling of tanning services and protecting young people. As I say, I'm not a proceduralist; I'm a lawyer. But my knowledge of how procedural rules have worked in Ontario is that they have generally taken a wide view of what's within the scope and what the purpose of the bill is. I would have thought both motions were, by Ontario procedural terms, within the scope of the bill.

The Chair (Mr. Grant Crack): Okay, so I'll rule that the motion is in order. I'd ask if there's any further discussion.

Ms. Dipika Damerla: Just for me, can I just jump forward to the NDP motion? Because I'm trying to understand what the difference is in terms of outcomes.

The Chair (Mr. Grant Crack): I think what we have to do, with all due respect, is deal with one motion at a time.

Ms. Dipika Damerla: Okay.

Mr. Rick Bartolucci: Would it be the intent, Mr. Chair—would the NDP be withdrawing their—

M^{me} France Gélinas: If it goes forward, we will. The intent is the same. I used “self-service automatic tanning”; they used, “require the presence of an attendant.” Both aim at doing the same thing. I have no problem supporting the language as it is now. I had no problem with the language that I had put down either.

Ms. Dipika Damerla: So I just need to understand. The PC proposal: Does it outright ban self-tanning? Or does it say that self-tanning would require an attendant to ensure somebody can check the ID?

Interjection.

Ms. Dipika Damerla: Sorry, the second or the first? I'm reading it as a total ban, but I'm not an expert on this.

Interjection.

Ms. Dipika Damerla: Yes. “Shall permit”—okay, I get it. That's fine.

Ms. Laurie Scott: Yes, I think it's—

Interjection.

Ms. Dipika Damerla: I'm fine. No, it's not a total ban—

Ms. Laurie Scott: It's not a total ban, no. I just wanted to read it again in case I had missed something, but no.

Ms. Dipika Damerla: No, that's fine. I understand. We're fine with it.

The Chair (Mr. Grant Crack): Okay, any further discussion? So I'll be asking for a vote. The new PC section 2.1: Shall the new section carry? Those in favour? The motion is carried.

The new NDP section 7.1 that was proposed: Is that going to be moved forward?

M^{me} France Gélinas: I withdraw.

The Chair (Mr. Grant Crack): Okay, very good. That one's withdrawn.

Are there any further proposed amendments? Go ahead.

Ms. Laurie Scott: I move that subsection 3(1) of the bill be amended by adding “for tanning” after “ultraviolet light treatments”.

Again, just defining it as for tanning, as opposed to there are some treatments used for medical purposes that involve ultraviolet light. So it's just clarification.

The Chair (Mr. Grant Crack): Discussion, Madame Gélinas?

M^{me} France Gélinas: Given that we've already voted in favour of motion 2, that we'll do this throughout the text, then a whole bunch of your motions that are just adding “for tanning” has already been captured. I think you put it in there in case we had voted no to motion 2 so that you could add it. But motion 2 basically puts it throughout the text.

Mr. Ralph Armstrong: No, ma'am, that's not the case.

M^{me} France Gélinas: No?

Mr. Ralph Armstrong: It has to be done clause by clause in each case, unless it was—I suppose, by unanimous consent, it could be done differently, but I think that might get a little confusing.

Interjection.

Mr. Ralph Armstrong: Okay, now the Clerk is saying, “No, forget about that.” So it's necessary to go through in each place where it says “ultraviolet light treatment” and add “for tanning.”

M^{me} France Gélinas: I call the question.

The Chair (Mr. Grant Crack): Okay, those in favour? The motion carries.

Is that the only one with—no, there's a new NDP one for 3—

Interjection.

The Chair (Mr. Grant Crack): No?

M^{me} France Gélinas: I'm on section 3.1.

The Chair (Mr. Grant Crack): Okay. That's a new section, so I'll go back one step. Section 3: Shall that carry, as amended? Carried.

So we'll move to the new NDP section 3.1.

M^{me} France Gélinas: I move that the bill be amended by adding the following section:

“Information sheet

“3.1. Every person who provides tanning services or ultraviolet treatment to an individual shall ensure that the individual, before the first occasion upon which the individual receives the services, receives an information

sheet in the prescribed form and containing the prescribed information.”

That came to us from the Canadian Cancer Society and has been requested by the public health units, who will be the people who will do the enforcement of this bill. It is meant to educate adults about the risk of indoor tanning. So, basically, everybody who would go into a tanning place would receive that sheet of information that would have been prepared by the health unit and left behind by the health unit when they do their inspection of the premises. It would be an education piece. It could vary as the education needs of the public evolve.

1440

The Chair (Mr. Grant Crack): Okay, thank you. Further discussion? MPP Yurek.

Mr. Jeff Yurek: I just want to question what we're forcing onto the business there in regard to costs in the system, about the health unit delivering, sending a health inspector out. What if they run out in between inspections? We don't know yet if the inspections are going to be yearly, quarterly, bimonthly. I think that's putting an undue burden on the business to ensure that they have those sheets. Tanning information is available online, I believe, with health units, and at health units and at doctors' offices etc. I just don't know if we really need to put this onto businesses.

The Chair (Mr. Grant Crack): All right, thank you. Any further discussion? Madam Damerla?

Ms. Dipika Damerla: It appears that this might be outside the scope of the bill and would need to be delivered back to the Legislature. But right now, this is not what was envisioned by the bill originally, so it's either out of order or—we need your—

The Chair (Mr. Grant Crack): I'm going to rule it in order and allow some further discussion and a vote on it. Any further discussion?

Mr. Rick Bartolucci: Just one question: This seems very logical, right? The only problem is that sometimes logic provides some difficulties. When you say, with the amendment that we're going to have, as “provided for in the regulations,” this now means that we're going to have to draft a regulation for this, correct? I don't know that it is within the scope of the bill. I mean, you've already ruled that it is within the scope of the bill, but I'm just wondering, is it within the scope when you have to draft a special regulation for this particular eye protection?

M^{me} France Gélinas: We're not on eye protection. We're on 8.1.

Mr. Rick Bartolucci: Yes?

M^{me} France Gélinas: It doesn't say “as per regulation.”

Mr. Rick Bartolucci: Oh, sorry.

M^{me} France Gélinas: It's okay.

Ms. Dipika Damerla: But it does, though. It does.

The Chair (Mr. Grant Crack): Any further discussion?

M^{me} France Gélinas: Do you want me to read it again?

The Chair (Mr. Grant Crack): Ms. Damerla.

Ms. Dipika Damerla: When it says, “in the prescribed form,” that suggests that we have to prescribe the form, which means adding to regulations, right? That's why we think—it's not so much that we agree or disagree, but we just think it is perhaps outside the scope of the way the bill is right now.

The Chair (Mr. Grant Crack): Okay, thank you. Madame Gélinas, I'm not sure if you—I'm getting some guidance here that you would want to include after “ultraviolet,” instead of “services,” “treatment for tanning.” Is that—

M^{me} France Gélinas: I had already read into the record “treatment.”

Mr. Ralph Armstrong: For consistency throughout, though, it would be preferable that it said “for tanning”—

M^{me} France Gélinas: Sure.

Mr. Ralph Armstrong: —for consistency with the new defined term that has been voted on.

M^{me} France Gélinas: Sure. Do you want me to read it over, or are you good?

The Chair (Mr. Grant Crack): I would prefer if you would, yes.

M^{me} France Gélinas: Here I go.

“Information sheet

“3.1 Every person who provides tanning services or ultraviolet light treatment for tanning to an individual shall ensure that the individual, before the first occasion upon which the individual receives the services, receives an information sheet in the prescribed form and containing the prescribed information.”

The Chair (Mr. Grant Crack): Mr. Fraser?

Mr. John Fraser: Chair, I just have a question. This amendment, is it going to delay in any way? Are we going to have to go back to the Legislature? Is it going to delay us in any way?

M^{me} France Gélinas: Far be it from me to delay this thing, believe me.

Mr. John Fraser: I just wanted to check—the information sheet, what's provided, the process for determining what that is.

M^{me} France Gélinas: The health unit that came and reported—the deputants—said that it's something that they found useful. The health units are already willing, ready and able to put in place that legislation; they're just waiting for us to do so. The information sheet is already ready.

Mr. John Fraser: So they determine what goes on that sheet. It's not for us to do.

M^{me} France Gélinas: Yes, they do.

Mr. John Fraser: Okay. That's all.

The Chair (Mr. Grant Crack): Okay. Any further discussion?

Ms. Laurie Scott: Under federal regulation, the warnings are already posted beside the tanning beds, for the health effects? I just wanted to make sure. What is posted under federal—France can answer, if she wants.

M^{me} France Gélinas: It isn't there yet, but once we pass this, then they will have to post it clearly close to a tanning bed, and it describes how far away it has to be. It

doesn't exist right now, but it will exist once we pass this bill.

Ms. Laurie Scott: So the feds are waiting for guidance from the province about the posting?

M^{me} France G  linas: No, it's already being done in other provinces; it's just not being done here. But the adding of an information sheet is really a piece of paper you will have in your hand, which the health unit wants to use as an education tool for the people who go to the tanning salons.

The Chair (Mr. Grant Crack): Any further questions, discussion? Mr. Yurek.

Mr. Jeff Yurek: I just want to add that I think the intent of this bill was to protect our kids 18 and under, and this amendment is going beyond what I believe is the scope of this bill. So we probably will not be supporting this amendment due to that fact.

The Chair (Mr. Grant Crack): Thank you. Any further discussion? Okay, I'll be calling for a vote. Those in favour of the amendment? Those opposed to the amendment?

M^{me} France G  linas: I'll ask for a recorded vote, please.

The Chair (Mr. Grant Crack): Normally, that is asked prior to a vote being taken. I apologize, but I'll have to decline.

Okay, so we have—I've done "in favour." Those opposed? The motion is defeated.

So we will move to the next item. I believe it's a PC amendment.

Ms. Laurie Scott: So you're good with your sections?

The Chair (Mr. Grant Crack): Yes. Section 3.1 was defeated. Now we're on to section 4, I believe.

Ms. Laurie Scott: Okay. You don't have to do an overall section—

Interjection.

Ms. Laurie Scott: Okay.

I move that section 4 of the bill be amended by adding "for tanning" after "ultraviolet light treatments" in the portion before clause (a).

Again, it's a housekeeping bill.

The Chair (Mr. Grant Crack): Okay. Any further discussion? Those in favour of the motion? Any opposed? The motion is carried.

We're still under section 4, correct?

Ms. Laurie Scott: Yes. I'll do it again, if you wish.

The Chair (Mr. Grant Crack): Okay, very good. Continue.

Ms. Laurie Scott: Okay. Under section 4.1 of the bill, I move—

Mr. Ralph Armstrong: Section 4 is a different section than 4.1, so—

The Chair (Mr. Grant Crack): Oh, I've got to do the same thing. Shall section 4, as amended, carry? Carried. My apologies.

Now section 4.1. Ms. Scott.

Ms. Laurie Scott: I move that section 4 of the bill be amended by adding "for tanning" after "ultraviolet light treatments" in the portion before clause (a).

M^{me} France G  linas: We just did that.

The Chair (Mr. Grant Crack): Yes, I think we did that one.

Ms. Laurie Scott: I don't know how that got moved back. Sorry. All right, back again.

I move that the bill be amended by adding the following section:

"Protective eyewear

"4.1 Every person who sells or provides tanning services or ultraviolet light services for tanning to an individual shall ensure that the individual is provided with protective eyewear that meets the standards provided for in the regulations."

The Chair (Mr. Grant Crack): Okay. Thank you. Any further discussion on the motion? Mr. Fraser.

Mr. John Fraser: Just a question: whether this section [*inaudible*] the bill? If you could let us know.

The Chair (Mr. Grant Crack): Okay. Thank you. You guys are really giving me a great time here this afternoon in my first—

Ms. Laurie Scott: I didn't know it was going to be so technical.

The Chair (Mr. Grant Crack): I'm going to ask Ms. Scott if she would consider "Every person who sells or provides tanning services or ultraviolet light treatments" instead of "services." Would that be something that—

Ms. Laurie Scott: Yes, "ultraviolet light treatments" is fine. Do you want me to reread that as "treatments"?

The Chair (Mr. Grant Crack): Yes, please.

Ms. Laurie Scott: "Protective eyewear

"4.1 Every person who sells or provides tanning services or ultraviolet light treatments for tanning to an individual shall ensure that the individual is provided with protective eyewear that meets the standards provided for in the regulations."

The Chair (Mr. Grant Crack): Thank you. What I will do is, I will need to take a few moments. We will recess to have some further discussion concerning the point of whether this is within the scope of the committee.

Ms. Laurie Scott: Okay.

M^{me} France G  linas: How long?

The Chair (Mr. Grant Crack): Five minutes.

The committee recessed from 1450 to 1457.

The Chair (Mr. Grant Crack): Thank you very much, everyone, for your patience. We are back to order.

I am going to, with careful consideration, call the motion in order. I would encourage all members to continue, if they so wish, to provide their questions and comments, and then we'll allow for a decision to be made, one way or another, through vote.

Any further discussion?

Mr. Rick Bartolucci: So you just called motion 10 in order, correct?

The Chair (Mr. Grant Crack): In order, because for me, the scope of the bill, when I look at the front page—An Act to regulate the selling and marketing of tanning services and ultraviolet light treatments—it falls, in my opinion, within that scope. It will be up to the committee

to determine whether or not they feel that this motion should move forward.

Any further discussion? Those in favour? Motion is carried.

Now, hold on a second. I just want to do this right. That was the new section 4.1.

Mr. Michael Harris: There's still one more to come.

The Chair (Mr. Grant Crack): Is there more? Okay. There are two more on section 4.1. So continue, Ms. Scott.

Mr. Michael Harris: It's the same one. It's a duplicate.

Ms. Laurie Scott: It's the same motion.

The Chair (Mr. Grant Crack): So the same—so it's not moved?

Ms. Laurie Scott: So I have to read it—

Interjection.

Ms. Laurie Scott: I don't have to move it? Okay. Withdraw.

M^{me} France Gélinas: We'll withdraw.

The Chair (Mr. Grant Crack): Okay, so that one, and the NDP withdraws. So shall section 4.1 carry? Oh, I didn't ask for the actual section? I'm just trying to be very thorough here.

Okay, carry it again. Let's go. Those in favour? Is it carried? Okay, carried.

Now we'll move on to section 5. Ms. Scott.

Ms. Laurie Scott: I move that section 5 of the bill be amended by adding “for tanning” after “ultraviolet light treatments” in the portion before clause (a).

Again, it's housekeeping.

The Chair (Mr. Grant Crack): Any further discussion on the motion? Those in favour? Opposed? The motion is carried.

I would ask: Shall section 5, as amended, carry? Those in favour? Carried. Let's be a little more enthusiastic, please, with the hands, one way or another.

Section 6: Ms. Scott.

Ms. Laurie Scott: I move that subsection 6(2) of the bill be amended by adding “for tanning” after “ultraviolet light treatments”.

Again, it's housekeeping.

The Chair (Mr. Grant Crack): Further discussion? Shall section 6, as amended, carry?

Interjection.

The Chair (Mr. Grant Crack): Okay, we vote on the motion first? I was just trying to quicken this up. Those in favour? Carried.

Now, shall section 6, as amended, carry? Carried.

Section 7.

Ms. Laurie Scott: I move that subsection 7(2) of the bill be amended by adding “for tanning” after “ultraviolet light treatments”.

The Chair (Mr. Grant Crack): Any further discussion? Shall the amendment and motion carry? Any opposed? The motion is carried.

Shall section 7, as amended, carry? Carried.

I believe there's a motion regarding the long title of the bill.

Interjection.

The Chair (Mr. Grant Crack): Okay, shall sections 8 through 10 carry, as there are no amendments? Those in favour? Carried.

Ms. Scott.

Ms. Laurie Scott: I move that the long title of the bill be amended by adding “for tanning” after “ultraviolet light treatments”.

The Chair (Mr. Grant Crack): Any further discussion? Those in favour of the motion? Carried.

Shall the title of the bill, as amended, carry? Those in favour? Any opposed? Carried.

Shall Bill 30, as amended, carry? Those in favour? Any opposed? Carried.

Shall I report the bill, as amended, to the House? Those in favour? Carried.

If I could ask the committee's permission to take a 10-minute recess? We still have to go into a closed session with regard to the Aggregate Resources Act. That will provide the members with an opportunity to refresh.

Thank you very much. We'll see you in 10 minutes.

The committee recessed at 1503 and continued in closed session at 1515.

CONTENTS

Monday 23 September 2013

Skin Cancer Prevention Act (Tanning Beds), 2013, Bill 30, Ms. Matthews / Loi de 2013 sur la prévention du cancer de la peau (lits de bronzage), projet de loi 30, Mme Matthews	G-237
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Monday 30 September 2013

Journal des débats (Hansard)

Lundi 30 septembre 2013

Standing Committee on General Government

Automobile insurance review

Comité permanent des affaires gouvernementales

Examen de l'assurance-
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STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Monday 30 September 2013

Lundi 30 septembre 2013

The committee met at 1404 in committee room 2.

AUTOMOBILE INSURANCE REVIEW

The Chair (Mr. Grant Crack): I'd like to call the meeting to order. I'd like to welcome members of the committee, members in the audience and presenters this afternoon. We're here to consider Ontario regulation 273/13, which is an industry-wide rate reduction target. We have scheduled five delegations that are presenters this afternoon, two of which were scheduled last week, but due to some unique circumstances unfolding in the House, we were unable to hear them. We welcome them back today.

ONTARIO TRIAL LAWYERS ASSOCIATION

The Chair (Mr. Grant Crack): What I would do at this particular point is that I would like to welcome the first presenter, the Ontario Trial Lawyers Association. I believe we have Mr. Gluckstein with us this afternoon. Welcome, sir. You have five minutes and then we'll have 10 minutes from members of the government and the two opposition parties to either ask questions or make comments. Welcome.

Mr. Charles Gluckstein: Thank you. Good afternoon. My name is Charles Gluckstein and I'm the president of the Ontario Trial Lawyers Association. I want to thank you for allowing me to appear in front of you today.

I'm here with John Karapita, our director of public affairs. I may lean on him if there are some questions I can't answer.

As you may be aware, our association is made up of over 1,400 members who represent accident victims. Our purpose is to promote access to justice for all Ontarians and to advocate for those who have suffered injury and losses as the result of wrongdoing by others.

I realize my time is short today so I want to address two concerns with you. The first comment deals with a concern that one of my colleagues and our past president, Andrew Murray, raised to this group a year ago, and that is the need to use caution when changing the auto insurance system and to be aware of the three Ps: protection, premiums and profits.

The second comment I will make is in relation to accountability and transparency, the mechanism that was discussed in the budget.

First, the three Ps: To borrow from Mr. Murray's metaphor, the automobile insurance system as a whole can be compared to a three-legged stool, each leg representing protection, premiums and profits: protection for all policyholders at a fair and affordable price, which is premiums, while allowing insurers to earn a reasonable return on equity—profits. Changes to insurance that favour one of the three Ps at the expense of the other parts of the system are not consistent with a fair, mandatory auto insurance system. I have distributed to all of you the MPP newsletter which grades the three Ps.

Our research indicates that since September 2010, we have a system that guarantees high profits at the expense of auto accident victims as well as the premium-paying public. I appreciate that action is being taken to address premiums, but we state in the newsletter that any changes must maintain a balance among the three Ps; in particular, protection.

The 15% reduction is being processed and implemented over a two-year period, but I urge you not to lose sight of what is happening to injured accident victims. Most of us may never be injured in an accident, but we need to know that our insurance provides adequate protection in the form of medical care, rehabilitation and coverage for the repair of vehicles.

Our system currently short-changes the injured. Members of my association and I see this in our practices every day. Countless victims of auto crashes are only able to qualify for up to \$3,500 for their care. And in addition to this low amount of coverage, they are subjected to unnecessary, intrusive and expensive insurance medical evaluations.

Although our members are aware of the current review of the minor injury guideline, I urge you as well to consider ways to provide for greater coverage for individuals through access to courts. Our association has long called for changes to both the deductible and the verbal threshold, which are significant barriers to access to justice.

Certainly, Ontario coverage, which was cut September 2010, must not be further eroded. Any proposed changes in the future, including revisions to the definition of catastrophic impairment, must begin with a thorough, open and transparent analysis of the data on current claims costs and the impact of possible changes on victims.

I'm now going to turn to accountability and transparency. In the spring budget, the government announced

that it would be, for the first time, introducing a new accountability mechanism for insurance data. The budget said that the government will create a transparency and accountability mechanism in the form of an independent annual report by outside experts on the impact of automobile insurance reforms introduced to date on both costs and premiums. The report is to review industry costs and changes to premiums paid by Ontario drivers and make recommendations as to further actions that may be required to meet the government's reduction targets.

1410

I want to say that the minister and the government deserve full credit for bringing this initiative forward in the budget this year. I believe, and it is no exaggeration to say, that this is an unprecedented initiative here in Ontario, and likely across the country, with respect to openness and transparency in insurance data. It is greatly overdue and most welcome. Auto insurance is a mandatory financial service. It only makes sense that the Legislature and the public at large have access to annual reports on the performance of our auto insurance system, the premiums we pay, the coverage we receive and the profit the industry makes.

It is fundamental and of paramount importance that this initiative be implemented as soon as possible. I urge this committee and the members of the Legislative Assembly to act on this priority item. In this time when there are contradictory reports on the financial performance of the industry, this accountability and transparency mechanism would put an end to the debate about a question to which there was really only one answer.

I note that the issue of accountability was included in the recent policy statement from the Minister of Finance. I also note that the commitment stated in the regulation differs materially from the budget papers filed earlier this year. For example, the budget indicates there will be annual reports on reforms to date. The policy statement only makes a vague and passing reference to retaining experts to report on the government's cost and rate reduction strategy. The wording from the budget is obviously much stronger and should take precedence.

Thank you for your time, and I'll welcome any questions.

The Chair (Mr. Grant Crack): Thank you very much. That was almost within the five minutes, just a little bit over. So thank you, sir.

If the committee is in agreement, we'll start with the opposition, third party and then government, and maybe for the next presenter we can switch it around. Would that be reasonable?

Mr. Jagmeet Singh: Yes.

The Chair (Mr. Grant Crack): Okay, so we'll lead with the opposition. You have 10 minutes.

Mr. Jeff Yurek: Thanks for coming out.

Mr. Charles Gluckstein: Thank you.

Mr. Jeff Yurek: It's good to see you. What are your thoughts regarding the Liberals' promise to cut rates by 15%?

Mr. Charles Gluckstein: Thank you for that question, Mr. Yurek. As you can see from the report card that

we sent out, we believe that insurance profits get an A+ because they're out of balance. We have done our own analysis on the data and we have found that the return on equity in both 2011 and 2012 exceeded 14% in both of those years, and that was after tax. Our analyst—and this should be further addressed by an actuary, but from a summary level, we understand that before taxes these profits were in excess of 20%. So we believe that the government-mandated 15% rate cut is easily obtainable.

Mr. Jeff Yurek: And what's your opinion on the pace of change they're taking these cuts?

Mr. Charles Gluckstein: It goes back to my comment about caution. When we cut down part of the leg to make the stool even, we have to make sure that the whole product is being considered. If you're going to take away the profits in the system that equalize what premiums should be, then you must make sure that protection isn't affected. I fear that further consideration of changes to the auto insurance product would be really not warranted, and if that's being considered, then we would really urge caution in any of these changes. But if it's simply just phasing in the rate reduction over the two years, there's certainly profit in the system to make that happen without any other changes to the insurance product.

Mr. Jeff Yurek: Thanks. Now, in past committees, we've had lots of discussions on different sets of data that people have used to come up with their profitability of the insurance industry. The debate—we've had representatives here who clearly were totally apolitical and didn't answer a single question. But between GISA and OSFI statistics, which one do you think is better in assessing profitability?

Mr. Charles Gluckstein: I don't want to say I'm qualified to answer that question either. I know there's an actuary presenting today who can probably better speak to that. I'm told, and this is what I can comment on, that GISA is sort of the gold standard in terms of insurance data. It is the most transparent information we have, and it seems to be—if you read from their website, it says, "The main purpose for the collection of this data is to provide premium and claim information to support fair rates." It seems to be saying that the purpose for its existence is to give the numbers and the very analysis that we're relying on. That's why we put a lot of weight on the GISA data.

Mr. Jeff Yurek: And I never doubt GISA data or OSFI data. I also have something from GISA's website. I'll state what's on the website and then ask for an opinion. GISA's website has the following on it: "The current data elements do not accurately reflect the rating variables that the majority of the insurance companies are using." If the data elements do not align with the rating variables, do you think GISA's figures should be valid and used in assessing profitability?

Mr. Charles Gluckstein: Again, I don't hold myself as an expert in looking at differentiating the data. I have been told that if you took 100 companies and their data and you look at it through GISA, you get one number, but if you look at it in the financial statements that get

put through on all the individual companies, it's very hard to filter out what all the companies are doing when they bring forward past years of losses and reserve numbers. It's very difficult to differentiate. But GISA puts it all on one big playing field and everything appears clear.

This goes back to my comment about what the budget has said about openness and transparency with insurance data. We wouldn't have this debate over what profits are if we move forward with the openness and transparency that the government has promised in their budget.

Mr. Jeff Yurek: I'll just change what we're talking a bit. Going back to the three Ps you mentioned earlier—which is one of the first three Ps I mentioned when I met with OTLA at the beginning of my tenure as an MPP; they had a great discussion on it. But recently, there was a decision, *Scarlett v. Belair*. Can you walk me through what your views of that decision are and give us your perspective?

Mr. Charles Gluckstein: Sure. The *Scarlett* decision is a decision that talks about the minor injury guideline. In that case, there was a consideration of the interpretation of the minor injury guideline, whether it's a mandatory guideline or not, and the arbitrator found in that decision that the minor injury guideline is not mandatory but should just be considered, which takes it out of it being a forced definition. So that decision, I know, has gone to an appeal and we await that decision. It has been argued.

The impact it has, obviously, is: What is the implication of the superintendent's minor injury guideline on other minor injury guideline cases? I think the government did pass regulations to make it clearer that the minor injury guideline should be mandatory, although it's basically a recommendation from the arbitrator as to how to strengthen the wording in the statutory schedule.

Mr. Jeff Yurek: Now, if that goes through appeal and is carried on, what do you think the cost implications will be in the insurance system?

Mr. Charles Gluckstein: I think that decision is still a factual decision. I don't think it will have, you know—it won't have industry-wide implications, necessarily. That was also a case where they were considering a pre-existing injury and a psychological injury, which are not supposed to be in the minor injury guideline. It's really a factual distinction that can be made on that case. So I don't think it's going to greatly change the outlook on what the minor injury guideline implications are.

Mr. Jeff Yurek: And further to that, this decision was from the 2010 reform changes, so it's been over two years to go through the mediation/arbitration system. Can you outline some of the problems that you're seeing in this dispute resolution process? Because I think two years is a heck of a long time to actually obtain an answer.

Mr. Charles Gluckstein: It certainly is, and thank you for that comment, Mr. Yurek. We've just finalized our submissions to Justice Cunningham on the DRS system and our views as to what should be changed. We were asked to do that and two weeks ago we finalized our submissions.

My comment on the DRS system: From 2006 until 2013, FSCO, the Financial Services Commission of Ontario, accumulated a backlog of over 30,000 cases and needed some solutions to resolve it. They brought in privatized mediators. It currently stands that there is no backlog. Our organization supports the Financial Services Commission program on dispute resolution. FSCO also has statistics that show that 60% to 70% of FSCO mediations resolve at the stage of mediation.

1420

We were asked by Justice Cunningham to decide whether to throw away the system or to offer suggestions on how to make it work better. Obviously, now that there is no backlog, and I know personally that my own cases can be heard within 60 days, I'm in favour of it, as is our association, in terms of keeping it, not throwing it out. But we have some suggestions to make it better, and that is that there are certain disputes that we know will never get revolved at FSCO mediation, and some of those are questions about what category of coverage would apply. So whether you're trying to get out of the minor injury guideline or whether you're trying to get out of the non-catastrophic category and be declared catastrophic, those are disputes that are never going to resolve at a FSCO mediation.

What we've suggested is that the insured person have the ability to opt out of FSCO mediation on their application, and they can be streamlined ahead to arbitration. For those disputes, we think that's a fair way to get it ahead. Although 60 days is not a long time to wait, even if you're not able to opt out, we think that that would be an improvement.

We do think FSCO has the specialized knowledge, both with mediation and arbitration, to handle these disputes rather than privatizing the system. We have some personal experience with the privatized mediators and we haven't had the same success rate in terms of resolving the disputes.

Mr. Jeff Yurek: Thank you.

The Chair (Mr. Grant Crack): Twenty seconds.

Mr. Jeff Yurek: Very much.

Laughter.

Mrs. Donna H. Cansfield: Touché.

The Chair (Mr. Grant Crack): Thank you, Mr. Yurek. We'll move to the third party and MPP Singh.

Mr. Jagmeet Singh: Thank you very much for being here again. Let's move right into the questions.

You touched on this in terms of your giving the insurance profits an A+ in your report. If I could ask you to comment on the industry claim that their return on equity was between 1% and 4% in 2011 and 2012: Do you think that value is too low, and, in reality, where does it stand? I'm assuming that your position is it's much higher than that.

Mr. Charles Gluckstein: Thank you, Mr. Singh. The report card that we've distributed is in response to what we've seen the industry or the IBC promote as what they say the data shows in terms of profits. Our own financial expert has talked to us and they've told us the numbers

are quite different, and that's what is revealed in this report card.

I obviously am not—I don't have an actuary background and I can't differentiate that, as other experts can. What I can tell you in terms of the difference and from what I understand is that individual companies who have financial statements will employ all sorts of different methods in calculating their individual profits, but when you look at the industry as a whole, we say the GISA data should be the gold standard.

Mr. Jagmeet Singh: Something that has been coming up time and time again in the Liberal government's position on reducing auto insurance is that they need to remove costs out of the system. That's something that has been said time and time again.

Our concern as the NDP is that costs have already been removed out of the system and we don't think—if the suggestion is that costs need to be removed out of the system, meaning that the coverage needs to be reduced or something along those lines, we're very much opposed to that.

What is your position on this comment that costs need to be removed out of the system and that needs to happen for the reductions to take place?

Mr. Charles Gluckstein: Thank you. That's a very important issue to discuss.

Obviously, we applaud the government in moving forward with the anti-fraud task force, and we hope that there will be some savings in the system when some other measures are implemented. In fact, 85% of those measures are measures that our association also put forward and agreed with. So I think tackling fraud is one area where you probably could look at some savings in the future.

In terms of taking it out of the protection, we don't believe that there are any further savings. In fact, we think it has gone way too far, and the lag for profits is much longer than the lag for protection. That's the problem: If you start looking at further ways to erode the coverage, you're really not getting covered for anything anymore.

To look at the catastrophic definition, the analysis that was done the previous round did not look at any data on who was catastrophic and what the payouts were in terms of the issue and the problem that the industry was facing. In fact, the medicine that was employed to look at the definition was done in a very quick fashion, and it wasn't done to the same degree, for instance, that they're taking this full-year study to look at the minor injury guideline. I would expect that for the most vulnerable and the most catastrophically injured, there would be a very large group of experts compiled and taking their time over a longer period of time to make sure they've got it right, if they're going to do that.

Mr. Jagmeet Singh: Okay. You touched on this briefly, and I just want you to elaborate on it. In the budget, there was a commitment to addressing this concern. What are the insurance industry's profits, actually? If there are significant profits, then we don't need to look at reducing

coverage for the catastrophically injured, and if the profits are significant, then we can start looking at premium reductions. As long as we have a lack of transparency on reporting what the actual profits are, we're left with this potential, I think, catastrophe where further cuts may be suggested or implemented because there's this fear that there are not enough profits.

What's your opinion on the importance of having clear and transparent data with respect to profits? Could you frame that in terms of maintaining protection for consumers in terms of the product and providing a vehicle to really getting at what the proper premium, the third leg, should be?

Mr. Charles Gluckstein: The open and transparent process that we've asked for is the same process and mechanism that was announced in the budget. We believe that if you move forward on that recommendation and you have an independent expert involved to compile the data on a regular basis, we won't have this debate every year on what the profits are.

It's our view that the industry has made almost a billion and a half in each of 2011 and 2012, simply with premiums, and there's enough in that profit to get that 15% reduction over the two years.

Mr. Jagmeet Singh: If it could be established that the profits that the industry was enjoying were significant, then would you agree that there wouldn't be any need for the industry or the government to look at reducing the number of folks who fall within the catastrophic category? Do you agree with that comment, and would you like to elaborate on that connection?

Mr. Charles Gluckstein: I would like to elaborate. To target the most vulnerable category, we're talking about 1% of accident victims. If there are 70,000 or 65,000 accident victims, we're talking about less than 1,000 people. These are the people who have brain injuries; they're amputees; they're paraplegics; they have multiple physical injuries or psychiatric injuries. These are the most vulnerable of all accident victims. Why is the industry looking to target this group for further reductions and contraction of the policy? There's no data to support it, and it's curious as to what the desire is to pursue this category.

Mr. Jagmeet Singh: With respect to the current cap, there's a \$3,500 cap on minor injury guidelines. How has that minor injury guideline impacted industry profits specifically, and what is your experience with respect to how that cap is being used by the industry?

Mr. Charles Gluckstein: The \$3,500 cap is the minor injury guideline. It was a new category that came in in September 2010. We've been told from the Financial Services Commission and from the industry that about 70%—and it could be higher—of all accident victims fall in this category. This category, pre-September 2010, was entitled to a policy that allowed for \$72,000 in attendant care and \$100,000 in medical rehab dollars if it was reasonable and necessary. Those individuals now get \$3,500 and no attendant care coverage, so it's a huge savings in the system.

1430

To create that category, unfortunately, there was no research done to figure out what and who should go into the minor injury guideline. In fact, I was on the committee, and the committee that was struck by FSCO with stakeholders simply took the pre-approved framework that was set up based on the Quebec whiplash study for WAD 1 and WAD 2, and they switched the title. They took the title and they switched it to “minor injury guideline,” so now you’ve got people with strains and sprains being treated for whiplash, essentially. The same amount of money that a whiplash victim gets is what these people get.

Obviously, there were record profits that could be generated out of that, and that is, I believe, directly in relation to the profits that you’ve seen, the \$1.5 billion in both years. We think the pendulum has swung too far that way. We hope that with the minor injury guidelines study there will be some better expert evidence as to what these minor injuries need in terms of treatment, and hopefully there will be greater coverage for these individuals.

Mr. Jagmeet Singh: How much time do I have left?

The Chair (Mr. Grant Crack): Just under a minute.

Mr. Jagmeet Singh: Okay. You’ll have just under a minute to respond, then.

Just a final clarification: If we were able to have a clear and transparent accounting of the profits, what is your position with respect to the industry’s ability, then, to go after the catastrophic definition? If we knew for certain what the profits were, would the industry be in a better or worse position to then look at the catastrophic injury guideline?

Mr. Charles Gluckstein: If there are going to be any further changes to auto insurance, there has to be data to show what the trends are and what the concerns are. I think that previously the industry showed that the accident benefits system was out of proportion, and that’s why there were these September 2010 changes, but to go and look at the catastrophic injured people, there was no data for that. If there are going to be further changes to any part of the product that affects protection, there should be data to support it, and that data should be from a consensus view from that open and transparent report.

Mr. Jagmeet Singh: Thank you.

The Chair (Mr. Grant Crack): Thank you very much. Who is the lead from the government side? Madam Damerla.

Ms. Dipika Damerla: Thank you, Chair, and thank you, Mr. Gluckstein, for coming today. I learned a lot in the last 25 minutes.

I’m just going to begin with this: \$3,500 is the ceiling in Ontario when it comes to minor injuries. I know you say that that’s among the lowest in Canada, and I was just wondering if you could give me a jurisdictional scan. I thought BC was about the same, so just give me some idea of what the other provinces would pay in the case of a minor injury.

Mr. Charles Gluckstein: I’m not prepared for that question, but I can certainly get back to you on that, unless Mr. Karapita has that answer at the top of his mind.

Certainly I’ll get back to you on that.

Ms. Dipika Damerla: Okay. Since you’ve said it’s the lowest, I presumed that you’d have some basis of evidence for that, but that’s all right.

My understanding, also, is that on the catastrophic side, Ontario has amongst the richest benefits. I just wanted your views on that.

Mr. Charles Gluckstein: Well, prior to Bill 59, which came out in 1996, we actually had an even better system, under Bill 164, that was more generous than it currently is, in that we had no restriction on attendant care. Now we have a \$6,000 cap and a million-dollar limit. In fact, all injured victims were eligible for all categories of coverage. There wasn’t a catastrophic category. I don’t believe there exists another catastrophic auto category, unless we look at the US system. I think Michigan has a catastrophic category. I’m not clear on—I think the coverage is similar.

Ms. Dipika Damerla: So let me just reframe that, then. If somebody had a catastrophic injury, say, in Manitoba—I’m just trying to understand—would their benefits be fairly similar to what somebody—I understand that they may not have that definition, but if somebody did have a brain injury—

Mr. Charles Gluckstein: I have a chart back in my office, and that’s how I did come up with that comment earlier, that tells me each jurisdiction. Manitoba, I believe, is public, so it’s just a no-fault system. They don’t have the ability to claim in tort, and I believe it is a similar type of recovery system, but I don’t know if they classify the injuries based on cat. It may have been closer to the Bill 164 system.

Ms. Dipika Damerla: I’m just wondering, because I know this is important for your industry: Can you explain for us how the definition of catastrophic impairment would affect the benefits that someone gets?

Mr. Charles Gluckstein: There are currently six categories that can qualify for catastrophic injury: spinal cord injured; brain injured; amputee; blindness; multiple fractures, which make up a whole-person impairment; or psychiatric impairment. The coverage goes to a million dollars for medical and a million dollars for attendant care, plus you get the housekeeping coverage and the caregiver benefit for those categories—different than the other levels of coverage. There’s a lot of important coverage in there for people, for instance, who have a spinal cord injury. If they’re left with the \$50,000 medical coverage, that’s going to be a huge burden on the OHIP system.

Ms. Dipika Damerla: Those benefits are well deserved, because these are people—as you said, they’re a very small percentage, 1%, who have had the most horrific accidents and, absolutely, they should get the benefits that you’ve just spoken to.

What about psychological issues? Where do you stand when you consider this one compared with physical injuries?

Mr. Charles Gluckstein: Psychiatric injuries have to be pretty serious to qualify as catastrophic. We’re talking

about people who could be committed to a hospital based on their inability to manage life in society as a normal adult. It's quite an extreme behaviour that would qualify. Once again, I don't know what the statistics are because we've never seen them. It would be interesting to see how many actually get declared catastrophic under that category. Oftentimes, the case law now allows you to combine your psychiatric score with your physical impairment score. We've seen that in the Kusnierz decision, where the amputee was allowed to use the psychological classification to get him over the 55% coverage. It's important that that was considered because the individual is an amputee and they needed all that coverage.

Ms. Dipika Damerla: Your point about the reduction to \$3,500 from, I think it was, \$72,000 and \$100,000 is well taken. Clearly, there was some benefit to the insurance companies once we brought in that definition of a minor injury. That point is really well taken.

I did want to come back to the idea that as we try to reduce premiums for Ontarians, we really have to balance the profits, as you mentioned, of the insurance companies with the premiums that they charge. There is some relationship between those two, and I know that MPP Yurek referred to it as well. There is some concern that the courts now might be overturning the idea of what we define as a minor injury, and insurance companies are concerned that means that they would not be able to project very well what their claims payout could be—because you don't know, once the courts start to overturn these definitions, how that might play out in terms of insurance premiums going up again. I just wanted your thoughts on that.

Mr. Charles Gluckstein: Thank you for that question. It's a two-part question. First is the impact of the decision, but second is the importance of the category—the minor injury guideline.

I want to answer the category question first and just refer you to a client of mine who I helped. This individual plays hockey in the US and had a few concussions playing hockey. He lives in Ontario and plays hockey in Minnesota at the university. He came back to Ontario for the summer and training, and was in a pretty bad crash. His car was written off. His injury was a concussion. You can imagine, after having two prior concussions, that it's not great to have a third concussion. It's actually much worse than if it was his first concussion. The insurance company, in this case, put him in the minor injury guideline. The minor injury guideline is sprains, strains, whiplash-associated disorders. The definition is quite clear, and this didn't fit in the definition. It took me about a year, with medical evidence from the Mayo Clinic in Minnesota, to convince the insurer to change the category. All that year, this individual sat out his hockey season—he was a junior in university—and wasn't able to get access to treatment without his parents and the university funding it for him. The insurance system failed him. He would have had access to \$50,000 worth of medical treatment, and he would have had some other coverage that would have helped him; rather, he got the \$3,500, which was used quite quickly.

1440

So we have to use some caution with what we've come up with, because the minor injury guideline, as I mentioned, was invented just by taking the whiplash-associated disorder schedule for the two pre-approved treatment frameworks and slapping a new title on there. I hope that the expert committee has some good recommendations after they've done their study.

The second part of your question is the impact of the Scarlett decision. I go back to my earlier comments that this decision did not interpret the minor injury guideline definitions, so the definitions have not been challenged. They are still intact. If you open up the Statutory Accident Benefits Schedule, there's a preamble to the minor injury guideline, where the superintendent writes a letter asking that this guideline be considered. That is what tripped up the arbitrator. In fact, the superintendent had the power to have this regulation be mandatory, and the arbitrator would have used it as a mandatory guideline but for the fact that there was this preamble in the letter where the superintendent said it shall be considered. That's why the decision is a little bit off in terms of understanding what the impact of the minor injury guideline is. In fact, a new preamble would solve that issue. Your government also passed legislation to strengthen the fact that the minor injury guideline should still be treated as mandatory. I don't think this case has the far-reaching application—and, once again, the case was very fact-specific. It was another example of a lady with a pre-existing injury, which is one of the reasons in the minor injury guideline that you can get out of the minor injury guideline. There were a lot of reasons why that decision can be distinguished and not concern that it will have wide application.

Ms. Dipika Damerla: I really appreciate that clarification. That was important.

The Chair (Mr. Grant Crack): Twenty-five seconds.

Ms. Dipika Damerla: In that case, thank you very much. I learned a lot. Again, thanks for coming.

The Chair (Mr. Grant Crack): Thank you to the three parties, and thank you, Mr. Gluckstein, for coming forward. It was very informative, and we appreciate you taking the time. Have a great day.

Mr. Charles Gluckstein: Thank you very much.

INSURANCE BUREAU OF CANADA

The Chair (Mr. Grant Crack): It's my pleasure, as Chair, to welcome the Insurance Bureau of Canada. I believe we have Doug DeRabbie, Barb Sulzenko and Barb Taylor with us today. Is that correct?

Ms. Barb Taylor: Yes.

The Chair (Mr. Grant Crack): Good. Welcome. You have five minutes to make your deputation, and then we will hear questions and comments from the three parties.

Ms. Barb Taylor: Good afternoon. My name is Barb Taylor. I'm the director of policy for Ontario for the Insurance Bureau of Canada. I'm accompanied by Barb

Sulzenko-Laurie, the vice-president of policy, and Doug DeRabbie, the director of government relations. We appreciate this opportunity to present to the Standing Committee on General Government.

As we have said in the past, consumers deserve a competitive auto insurance system that delivers affordable premiums for all drivers and fair benefits for injured collision victims. This can only be achieved with a commitment to real reforms that address costs.

Earlier this year, the government introduced legislative amendments as part of its cost and rate reduction strategy that committed to an average rate reduction of 15% over two years, with an interim target of 8% by August 2014.

Reducing auto insurance rates without a plan to tackle the root problems in the auto insurance system will have a negative impact on drivers, insurers and, ultimately, Ontario's economy.

Auto insurance is a competitive industry. Some companies have been able to take premium reductions and others have not. This is because while the 2010 reforms were much needed, they have not produced the savings necessary to dramatically decrease rates, certainly not by 15%. Prior to the reforms, the industry was losing over a billion dollars a year. The reforms helped to stop that bleeding. In fact, some parts of the auto insurance product have experienced rising costs, such as bodily injury costs.

Since premiums are tied to claims costs, we are encouraged to see that the budget includes measures that help reduce costs. Anti-fraud measures such as the licensing of health care clinics and the expansion of the provincial regulator's authority, along with conducting studies such as on dispute resolution and towing, are a move in the right direction. We also know that the government is in the process of hiring experts who will do an independent annual review of the auto insurance system, with a view to recommending ongoing reforms.

These are all important measures, but each will take time to implement. That makes it all the more important that these measures have a specific cost reduction goal so they can translate into lower costs for the industry and lower premiums for consumers.

Fraud has been an ongoing and entrenched concern for the industry for many years, with many parties having a vested interest in maintaining the status quo in the auto insurance system for their own personal gain. This will not change overnight.

No one can dispute that auto insurance in Ontario is a very high-cost insurance product, particularly when it comes to compensation for injury claims. We need only look at the fact that bodily injury tort claims in Ontario result in an average payment of \$148,686. In Alberta, it's \$36,475; in New Brunswick, it's \$39,475. Similarly, for no-fault injury claims, the average payout in Ontario is \$28,390. In Alberta it was \$3,626, and in New Brunswick it was \$11,415.

We believe that much more needs to be done if the government's targeted reductions are to be achieved and

if Ontario's drivers are to finally reap the benefits of ongoing premium stability enjoyed by Canadians in every other province. To that end, IBC has recommended actions for further reform. These include measures that safeguard the goals of the 2010 reforms by removing excessive and unnecessary over-utilization of available benefits, acting on the recommendations of the expert review of the dispute resolution process, addressing the spiraling costs of bodily injury tort claims, and simplifying rate regulation. We must do these things, and do them quickly, for the benefit of all Ontario drivers.

Now we would like to take a moment to address the allegations that the industry is in a financial position to immediately reduce rates.

In March, IBC released two reports, one done by KPMG and the other by Joe Cheng. The KPMG report showed that during the period of 2008 to 2012, losses were at an all-time high of \$3 billion. KPMG estimated the return on equity at 3.3% and a net income of \$294 million. Joe Cheng's report had similar results: a return on equity of 4.9%, and \$492 million.

Both reports were based on financial data using the Office of the Superintendent of Financial Institutions. The rate is far lower than the 11% return on equity allowed by FSCO and far below returns of other industries, such as banking at 16.5%, retail at 12.2%, and securities at 12.6%.

To conclude, it's quite simplistic to call for a drastic rate change without a plan. A straight 15% cut to premiums would turn a modest profit in 2012 into another significant loss for the over 90 insurance companies that operate in Ontario auto. We need perseverance to build a sustainable, stable and affordable auto insurance system. Although the budget introduced measures that will help reduce costs, they will not fix the problem soon enough. More and ongoing reforms are needed to help insurers move closer to achieving rate reduction targets.

If we invest the time and effort to make the right changes, Ontarians will get the effective and affordable auto insurance system they deserve.

Thank you for the opportunity to address you today.

The Chair (Mr. Grant Crack): Thank you very much, Ms. Taylor. We will ask the third party to begin the questioning. Mr. Singh.

Mr. Jagmeet Singh: Thank you very much.

In referring to the two reports that you spoke about, my question is in reference to those. What role does increasing or pumping up your reserves have in reducing your stated profits? So how does attributing reserves or increasing that value impact your profits—first part.

If you increase your reserves, you decrease your claims payouts: Is that correct?

1450

That is the difference between using OFSI data and GISA data. The GISA data has a far lower claims payout. Therefore, if you use GISA data your ROE would be much higher.

That was a three-part question, and I can break that down again for you at any time.

Ms. Barb Taylor: I'm not an actuary. I think those questions would probably be best handled by the persons involved in doing those reports. What I can say is that the reason we would use the financial data offered by OFSI is that that data is actual data, whereas GISA data is an estimate. If you look back at the presentation to this committee back in May, FSCO presented as well, and they also indicated that to analyze the return on equity, they would suggest that it would be more reliable to use the financial data. The financial data does include our reserves, whereas the GISA data does not.

Mr. Jagmeet Singh: Are you aware of the impact that increasing or decreasing reserves would have on your profits? I suggest to you that if you increase the reserves you would immediately decrease the profits reported. A simple accounting of increasing or decreasing reserves would have an immediate impact on increasing or decreasing profits, though there's absolutely no difference in terms of the circumstances surrounding the data. Do you agree with that?

Ms. Barb Taylor: Again, as I said, that would be a better question for the people involved in doing the actual studies.

Ms. Barb Sulzenko-Laurie: If I could just add a comment: Insurance companies are required, when they get a claim, to reserve against the potential ultimate payout, and that is included in the OSFI data. But I think the other point, in terms of the whole issue of the transparency of the profitability of the insurance industry—I think you'll recall that last May the executive director of GISA was here and said that they were undertaking a study of expenses and profits for Ontario auto and that they expected that that report would be available sometime at the end of the summer or fall. Certainly we're looking forward to receiving that report, and I'm sure this committee is looking forward to receiving that report. It's interesting because GISA actually does the collection of the data. If they've done an analysis of profitability as well as expenses—I'd really like to look forward to that report.

Mr. Jagmeet Singh: Thank you so much. The concern we have is that the perspective that's being projected by the IBC that the insurance industry is not making a significant profit is something that we have a hard time believing and I think even the government has a hard time believing, given the fact that they're moving forward on the NDP budget demand of reducing insurance premiums by 15%. Do you agree that there are certainly people who have a concern with the numbers that you're raising and that there seems to be a much more significant profit than you are presenting as the IBC?

Ms. Barb Taylor: It has certainly been a topic of debate. One thing I can refer you to are the two economists that were tasked with looking at the return on equity for the industry. They determined that the overall return on equity for the last 10 years was approximately 4%. This was two independent actuaries. They are both professors from York University.

Mr. Jagmeet Singh: My other concern is that if we look at the past number of years when the 2010 amendments came into effect, from 2010 to 2011 and from 2011 to 2012, in that time period when there have been significant cost reductions—and I think we all agree that there have been the most historically significant cost reductions that this province has seen—that, given those cost reductions, the premiums haven't come down. If we look from the 2010 period to present, there's been an increase of 4% in terms of premiums. If your projections or estimates of profits turn out to be wrong, then there have been three years where the insurance industry has enjoyed significant profits, historic profits, and Ontario residents and Ontarians who drive here in this province have not received anything. There's no way for them to receive a return on this significant profit that insurance companies have made but a significant premium reduction that didn't occur that Ontarians were looking for. Do you agree with that comment?

Ms. Barb Sulzenko-Laurie: I understand the logic of your question. Having said that, in the years building up to those reforms, the industry was losing billions of dollars a year. The last year before the reforms came in, our estimate was a loss of \$1.7 billion that the industry incurred. So, while the reforms of 2010, at least on paper—and I emphasize that: on paper—have produced some savings, even if those paper savings end up being real, it just brings us back to the point where we're not losing money in the extraordinary sense that we were prior to the reforms.

I said that they're paper savings as well, because there are so many of the minor injury claims that are currently in dispute in the FSCO mediation/arbitration system and ultimately in the courts that we won't know for some time to come whether there are any savings at all, depending upon the outcome of those disputes.

Mr. Jagmeet Singh: Well, I beg to differ. In terms of the backlog, I think it's very clear that we have a very strong sense that the backlogs have been addressed and that, moving forward, there isn't going to be a significant spike in any way, given the statistics we have and the evidence we have in terms of where the results are, and it would be pure speculation to suggest otherwise.

But I have another question I'd like to ask you. On page 3 of your report, at the top of the page, it has a paragraph where you cited the difference in terms of average payments in Ontario versus Alberta and New Brunswick. In fairness, the system is quite different in Alberta versus Ontario, so you're not comparing apples to apples. I'd ask you if you agree or disagree with this comment. In fact, in Alberta the claimants have access to the courts, so a substantial portion of the costs that are actually attributed to each claim is borne out by the tort system, so that wouldn't be covered by this fact here. In Ontario, it's a different case where, for minor injuries, there's no access to the courts, so the injuries that are paid out on a minor injury basis don't meet a threshold to actually go to court. So there's a significant difference in the systems.

Ms. Barb Sulzenko-Laurie: You'll note, again, from the numbers that we presented here, that the average cost of both a no-fault claim and a tort claim in Alberta is much, much lower than it is here in Ontario.

Mr. Jagmeet Singh: My question was that the systems are quite different. You're not actually comparing—

Ms. Barb Sulzenko-Laurie: Actually, they're not so different. In fact, you were talking earlier about the definition of "minor injury" that's in the minor injury guideline. It's very similar, if not almost identical, to the definition of "minor injury"—

Mr. Jagmeet Singh: I wasn't referring to the definition, but the system in Alberta is significantly different from Ontario. I hope you're not suggesting to this committee that they're similar systems when they are—

Ms. Barb Sulzenko-Laurie: I don't think so. I think there's been an enormous harmonization of the systems over the course of the last 10 years. Alberta has increased its no-fault threshold to \$50 million. Ontario now has a no-fault threshold of \$50 million. Both of them have access to the courts, and so I think that the system here and in Alberta, as well as in the Atlantic provinces, has been substantially harmonized over the course of the last 10 years.

Mr. Jagmeet Singh: Well, we'll certainly bring evidence forward to suggest that the systems aren't actually as similar as you're claiming they are, but we'll move on.

One of the interesting points is that there are two different reports that were presented by two different—

The Chair (Mr. Grant Crack): One minute.

Mr. Jagmeet Singh: —actuarial consultants, and there is such a significant difference—\$200 million—in terms of the spread between one report to the other. Do you agree that there is a significant issue here with getting to the facts of what the true profits are in the industry, and that we need a transparent and accountable mechanism to actually get at what the true profits are in this industry? Do you agree that there are certainly problems, when your own reports have a \$200-million difference between the two of them? There's something wrong in this way of accounting.

Ms. Barb Taylor: The reason for the difference is that each individual actuary will make assumptions with regard to allocations, because there are allocations by province and by line that have to be made on the product. That's basically where the difference would be.

Mr. Jagmeet Singh: My question is, doesn't that contribute to a significant problem if we're trying to make decisions on whether there's been profitability and what steps we need to take to ensure that our protection is maintained and that the premiums go down in a fair manner? If the consultants, the actuaries themselves, are finding \$200 million different between them, there's a problem here in being able to provide an accountable, transparent way of presenting the actual profits the industry is making. Do you agree that that difference speaks to the problem that we're facing?

Ms. Barb Taylor: I actually don't think that's a—

The Chair (Mr. Grant Crack): Time is up. If you could maybe just wrap this one up quickly, I'll allow it.

Ms. Barb Taylor: I just refer back to the GISA report that's going to be available.

1500

The Chair (Mr. Grant Crack): Thank you very much. Government?

Ms. Dipika Damerla: Thank you, Chair, and once again, thank you to Barb and Doug for being here.

Actually, I'm just going to continue where MPP Singh left off, because I don't think I really got a chance to hear the answer on why there is this difference in average payouts between Ontario and the other provinces; I think we got caught up in whether we were comparing apples to apples or not. But assuming we're comparing apples to apples for a minute, could you explain why there is this difference?

Ms. Barb Sulzenko-Laurie: Ah, yes. I spent many, many, many hours and days thinking about the differences.

Ms. Dipika Damerla: I think it is the crux of the issue, as well.

Ms. Barb Sulzenko-Laurie: And the problem with Ontario auto is not new. It's been building up over 20, 25 years as a result of the incredible richness of our product. Efforts have been made in recent years to rein that back, whereas in some of the other jurisdictions they have been moving it towards the Ontario—

Ms. Dipika Damerla: Sorry, I can't hear you.

Ms. Barb Sulzenko-Laurie: In other jurisdictions, they have been moving, in some respects, but cautiously and with a great deal of oversight over the operation of the system and the stakeholders in the system. As a result, they have been able to control the growth in those costs.

Over 20 years we've had the build-up of cottage industries around towing, med rehab, psychology, physiotherapists, chiropractors and so on, that have taken advantage of the fact that there was this very, very rich Ontario auto insurance product. Currently—

Ms. Dipika Damerla: Can I just stop you? Are these numbers historical or they after the 2010 reforms?

Ms. Barb Sulzenko-Laurie: They are what the situation is right now. These numbers are 2012 numbers that we've cited here. But when you ask the question as to why it has happened that Ontario has become such a very expensive auto insurance system, it's the product of 20 years of neglect and a very rich product that a lot of stakeholders have seen as an opportunity to make good livings off.

Ms. Barb Taylor: Just as an example, there are over 9,000 medical and health providers that are registered on HCAI providing services to auto insurance claimants.

Ms. Barb Sulzenko-Laurie: And there are only 62,000, 63,000 claimants, so there are 9,000 providers that are making a living off something like 62,000, 63,000 injury claimants.

Ms. Dipika Damerla: The part that puzzles me is that if 70%—that's my understanding of the numbers that were discussed earlier—of the claims are covered off by the \$3,500 cap, which is a substantial change from before 2010, the vast majority are clearly being capped at

\$3,500. Despite that, why is there such an anomalous situation? The portrait you're painting is of runaway claims costs, but I'm trying to square that with the idea that 70% of people who have an accident in Ontario cannot claim more than \$3,500.

Ms. Barb Sulzenko-Laurie: I think there's no question that the 2010 reforms have had an impact. There's no question about it. We would not deny that at all, but what we're coming from is a period when the industry was losing \$2 billion a year. As a result, some substantial reductions in the cost of minor injuries as well as more serious injuries were necessary in order to break even. At the same time, of course, what we've been seeing is a surging tort cost within Ontario in the post-2010 reform period.

Ms. Dipika Damerla: Fair enough. Would you be able to tell me what, in your opinion, is the biggest challenge to lowering the cost of insurance rates?

Ms. Barb Sulzenko-Laurie: I think the government has probably got it right. There's not a single thing that needs to be done. It took 22 years to mess up the system and hopefully it's not going to take 22 years to fix it up.

But there are problems with the dispute resolution system. There are problems with the enormous backlogs in the courts, as well. It takes two and a half years to get to court on a tort claim, which then shows up in terms of the interest that's payable on the awards and so on. There is the expectation of the med rehab community that they're going to continue to be able to make as good a living off auto insurance and it's hard to push that back. It will take a while, but we're saying start now.

Ms. Barb Taylor: Including fraud. I mean, fraud has been a concern for the industry as well. We really have to cut back on—eliminating that from the system. It takes time, because there have been behaviours going on in the industry for a long time, and to change those behaviours will take aggressive measures.

Ms. Dipika Damerla: Thank you for bringing up the issue of fraud, because that is a central part of the problem we're trying to tackle. Would you be able to give me some idea of how fraud in Ontario compares with fraud in other jurisdictions?

Ms. Barb Taylor: I would say fraud in Ontario is particularly fraud in the GTA. It's not throughout Ontario. It's prevalent in the GTA. If you look at those 9,000 providers, I would think the majority probably are in the GTA. There's fraud from right out staged accidents to where you get into perhaps overtreatment, prolonged stays away from work, things like that. There's just opportunity there to find loopholes in the current system and that can be taken advantage of.

Ms. Dipika Damerla: My final question before I turn it over to MPP Hunter is the internal rate of return: Can you link for me what reducing FSCO's internal rate of return that we guarantee for the insurance companies—what kind of impact would it have on the insurance industry and costs on premiums?

Ms. Barb Taylor: You mean going from—

Ms. Dipika Damerla: Yes, reducing the internal rate of return.

Ms. Barb Taylor: —from 12% to 11%?

Ms. Dipika Damerla: Yes.

Ms. Barb Taylor: Like I said, on average, the industry has not made the 11% or 12%, but that's a target and that's basically for rates going forward in the future. Insurers use that as part of their calculations, so it is very important to them. But as far as whether insurers are on average achieving that, they have not been. But that's not to say—it's a competitive industry. Some insurers strive to reduce their costs, become more efficient and effective in their operations. That's what it's encouraging: innovations, creativity.

Ms. Mitzie Hunter: How much time, Mr. Chair?

The Chair (Mr. Grant Crack): You have two minutes and 35 seconds.

Ms. Mitzie Hunter: Okay. I have two questions. Just continuing along the question of fraud—and you said this is a specific GTA issue as it relates to Ontario—I'm wondering what you see as some of the approaches that we can take to get at this issue, and do you see the industry itself playing a role in that?

Ms. Barb Sulzenko-Laurie: Well, some of the initiatives have already been initiated by the government insofar as some of the regulations that have recently been passed. There's also the proposal of the anti-fraud task force to require licensing of med rehab clinics, and with the licensing, a requirement for their transparency, their communication with their patients or their claimants and their adherence to standards of practice that represent the best medical knowledge as to how to treat these types of injuries that arise from motor vehicle accidents. Some of these initiatives are under way, and also the use of HCAI data to more easily identify potentially fraudulent situations. They're not going to happen overnight. We need a culture change. Yes, licensing of clinics and the adherence of 9,500 clinics to standards and being held to account will move the system forward a great deal, but it's not going to happen tomorrow. We need a culture change.

Ms. Barb Taylor: And certainly there is more authority to be given to FSCO with respect to clamping down on fraud; as well, the ADR study that's being done by Justice Cunningham. We're very hopeful that that study will show a lot of progress on how there can be changes to the whole system.

Ms. Mitzie Hunter: And the industry, in terms of what you see the industry itself being able to do about this issue?

Ms. Barb Sulzenko-Laurie: The industry does have anti-fraud units in every single insurance company, and they have to, because there's always a potential for fraudulent claims. The industry has a responsibility to be vigorous in the identification of fraud in terms of the benefit to its own bottom line, but also, most importantly, to the benefit of consumers.

1510

The Chair (Mr. Grant Crack): Okay. Thank you very much. That's just over the 10 minutes. We'll go to the official opposition. Mr. Yurek.

Mr. Jeff Yurek: Thank you, Chair. I just want some clarification before I dive into my questions, because it has come up from the last presenters and during questioning with the NDP. Mediation's backlog has been cleared. Now, are all these cases in arbitration now, or is everything clear? Let's get this—

Ms. Barb Sulzenko-Laurie: An awful lot of them have gone to arbitration. So we had a backlog in mediation, and now it's replaced by a backlog in arbitration.

Ms. Barb Taylor: They don't call it a "backlog" in arbitration, because there was never a 60-day timeline.

Mr. Jeff Yurek: Just the wait-list.

Ms. Barb Taylor: And also, basically, there were about 24,000 mediations being registered every year, but what's happening now is that there isn't the—it's not called a backlog, because within 60 days they're being assigned, but that means they are basically sitting on somebody's desk. They haven't gone away. They're assigned and on someone's desk, whether it's a FSCO mediator or whether it's ADR Chambers.

Mr. Jeff Yurek: So it wouldn't be speculative at all for you to say that because these cases haven't gone through arbitration, there's a potential that your costs could drastically go through the roof through these arbitration cases?

Ms. Barb Sulzenko-Laurie: Absolutely, because the arbitration decisions will be, of course, retroactive to the passing of the regulations in 2010, so potentially, you know, there's no constraint on what the ultimate costs could be, with some disadvantageous arbitration decisions.

Mr. Jeff Yurek: So, otherwise, if you go to the task of the NDP's thought process, then, you'd have to assume that every single case is going to be ruled in your favour. Does that occur all the time in arbitration, in previous history?

Ms. Barb Sulzenko-Laurie: Very seldom. Very seldom.

Mr. Jeff Yurek: Okay. I'll go on with my questions. I just wanted to clarify; I was getting so confused with what was being said today.

IBC runs ads that I've noticed around, saying that your ROE in 2011 was 1.3% and in 2012 it was 4%, and we have a report coming to committee later on today saying that it's around 14%. Why is there such a huge difference?

Ms. Barb Sulzenko-Laurie: I can't speak to the report that you're going to receive today—you know, who did it and how it was done. I haven't seen that report, but the reports that we've had done have been done by very respectable organizations, KPMG and Joe Cheng and Associates. But again, we refer you to the GISA report that's going to be coming out. It is going to be transparent, and you can examine it. We're certainly very anxious about looking at it as well. We expect that it will find results that are similar to the analysis that was done by our experts, because we chose them for their expertise, but we'll look forward to it.

Ms. Barb Taylor: Basically, the ad was based on the KPMG data, so if you are looking for the specific

analysis on the numbers, we have those available and can provide it. That's where we got the numbers for the ad.

Mr. Jeff Yurek: Okay. It has also been said lately in the media that the insurance industry has been raising auto insurance premiums in response to the mandated 15% from last March. Is that true? And explain, yes or no, if it is true, why, and then let me know why rates are going up right now.

Ms. Barb Taylor: Absolutely untrue. If you look at FSCO's rate approval system for 2013, rates have gone down just over 1%. In the prior year, I think it was 0.2%—a smaller one, 0.26%—so you have to basically look at those changes overall that have come through. They're posted quarterly, and if you look at those, you'll see the kind of average rate changes that come through.

Mr. Jeff Yurek: So is it possible for the insurance industry just to start hiking rates immediately?

Ms. Barb Taylor: No. For example, my renewal is in October. If my insurer were to come in with a rate increase, I probably wouldn't see it till next October.

Ms. Barb Sulzenko-Laurie: There's no rate that can be charged in Ontario that hasn't been approved by FSCO. It's all subject to regulation.

Mr. Jeff Yurek: And can they get that changed within a week?

Ms. Barb Sulzenko-Laurie: Absolutely not, no. The rate application process—well, one of the concerns that we have is that it's a very lengthy process. It might take two to three months to prepare a rate application, then some months to go through the FSCO process. Then the rates are approved, and then there are lead times before the implementation of the rates can occur.

Mr. Jeff Yurek: So you're looking at over a year before your rates would—

Ms. Barb Sulzenko-Laurie: Absolutely, and then they would occur as individuals' renewals came up.

Mr. Jeff Yurek: Okay. Now, across-the-board cuts auto insurance premiums would definitely save money to people paying the premiums. I feel that it would save more money on those who have more expensive cars and are able—they pay a higher premium. So a 15% cut would have them have an increased cut, whereas those people who have cheaper cars, or are unable to afford higher cars—they're paying premiums, too—their reduction would be much lower. So, in a sense, this case would be more so for the rich and wealthy to just cut premiums down 15%. Do you think there's a better way to actually achieve savings for both classes, richer and poorer, as opposed to focusing on a cut that's benefiting the rich in Ontario?

Ms. Barb Taylor: If you're looking at an across-the-board 15% cut, not only would you affect people differently based on the value of their cars; you'd be affecting people based on their driving behaviours as well. It would be very inconsistent with the way that actuaries do the rating process. For example, you'd be benefiting people who have had four or five accidents, so it would be really inconsistent with the way that actuaries work.

Like I said, the best way to do it is to, one, bring costs down in this system and have actuaries take those costs into consideration. Again, those costs have to be real costs. They can't be costs in the future. Once those costs have actually been reduced, then the actuaries, when they do their indications, will show that they have rate adequacy and then the rates can come down.

Mr. Jeff Yurek: What are your thoughts on the impact of the Facility Association on a 15% cut in rates?

Ms. Barb Taylor: Again, the people in the Facility Association are amongst some of the worst drivers with the most accidents. Giving them rate reductions, I think, would be inconsistent with the policy intent, as well as would be giving, for example, some of the non-standard companies that also target towards drivers who have had more accidents and convictions.

Mr. Jeff Yurek: The report—we're going to hear later on from a deputant on his report. I know there's such a huge difference between what the IBC has proposed and what he is proposing. Would you be willing to sit down and have your actuaries have a meeting with him and see where the discrepancy lies?

Ms. Barb Taylor: Absolutely.

Ms. Barb Sulzenko-Laurie: Although, I must say, I would like to wait until the GISA report is out as well.

The Chair (Mr. Grant Crack): Two minutes.

Mr. Jeff Yurek: Two minutes? Okay. No, I'm good. That's good. Thanks, Chair.

The Chair (Mr. Grant Crack): Okay. Well, thank you very much. We appreciate you taking the time in coming—a very interesting discussion. Thank you.

INSURANCE BROKERS ASSOCIATION OF ONTARIO

The Chair (Mr. Grant Crack): We have the Insurance Brokers Association of Ontario. I believe we have Mr. Orr and Mr. Lofsky with us this afternoon. Welcome. We will begin with the five-minute presentation, and then we will move to the government first, the opposition second, and the third party third.

So welcome. The floor is yours, sir.

Mr. Rick Orr: Thank you. My name is Rick Orr. I am chairman of the board and past president of the Insurance Brokers Association of Ontario. I'm joined here today by our government relations consultant, Arthur Lofsky. I want to thank the committee for having us back again today to comment on the government's regulations.

The Insurance Brokers Association of Ontario represents six million consumers across the province and 12,000 insurance brokers. We help consumers with their auto and property insurance needs. Our priority is to protect the interests of our customers, from the time they purchase the policy through to when they may have a claim and need an independent advocate at the time of loss.

1520

We work closely with insurers and the Insurance Bureau of Canada, but we do not represent insurers. We

are licensed and educated professionals whose prime concern is that of our customers: the consumer. As an association, the IBAO often differs on certain policy matters with insurers, as a broker's prime responsibility is to advocate and serve the consumer, often giving a different perspective than the companies themselves.

On August 23 of this year, the government revealed regulations that require a 15% reduction in average premiums over a two-year period ending August 15, 2015. The minister announced a number of things they're planning to do in order to achieve lower rates, but nothing other than this target regulation was implemented.

On behalf of the six million policyholders our brokers represent, we support lower premiums in this province. We understand they are needed, but they need to be achieved in a responsible fashion. Mandating a 15% premium reduction without pairing it with identified cost reductions makes us very concerned, and it should concern you as well. It could have unintended negative consequences on the industry and for consumers.

Last November, the Ontario anti-fraud task force presented 38 recommendations in their report. It has now been 10 months since the release of that report. At this point, we have no idea when the crackdown on fraud will begin. The key recommendations still to be implemented include the licensing of health care clinics and tow truck regulations. IBAO believes that when these recommendations are implemented, rate reductions that consumers deserve will follow. We were hoping that the August 23 announcement would include regulations to implement health care clinic licensing, a key recommendation to control accident benefit fraud and abuse.

Something has to give. Regardless of the type of business you are running, you cannot reduce revenue without implementing cost reduction measures to reduce expenses and expect to survive. It just doesn't work.

The government could also help reduce rates if they would implement the new catastrophic definition that is with the Ministry of Finance. However, the government continues to further consult even though it already went through a thorough consultation process.

Regarding the dispute resolution system, we were happy to see an announcement of a review to overhaul the system, a problem that has been festering for over two years now. The sooner this is dealt with, the sooner unnecessary costs and uncertainty will be taken out of the system, resulting in lower premiums.

Our expectation for the August 23 announcement was that we would see more progress being made, given the challenging timeline to achieve lower premiums. Since there wasn't, we believe that there's an inherent risk that forcing rate reductions without identifying cost savings of any kind will result in future availability and affordability concerns for consumers in Ontario.

On a more positive note, we wanted to bring to your attention a number of things that were contained in the policy statement the minister published in the Ontario Gazette on August 24, the day after his rate announcement. The minister has the power to issue such policy

statements, which the Financial Services Commission of Ontario “shall have regard to” in making decisions.

Of note to IBAO is that FSCO is directed to study whether insurers are in compliance with the prohibition of credit scoring on auto insurance and to study the mandatory collision reporting threshold under the Highway Traffic Act. IBAO believes these two items in particular are direct responses to our advocacy efforts on behalf of consumers.

On the first item, IBAO has raised concerns that credit scoring on home insurance may be subverting the credit ban on auto insurance, given that the two products are often sold together with a discount. On the second, IBAO has suggested that reporting a collision under an increased threshold for minor accidents should not be counted against a driver if that driver does not make a claim. The current threshold is \$1,000, which has not been adjusted in many, many years.

Since this statement was issued, MPP Mike Colle has introduced Bill 100, the minor accidents and new drivers act. IBAO strongly endorses this bill. The bill raises the reporting threshold for minor accidents to \$2,500 and prohibits insurers from rating drivers negatively if the driver does not make a claim. It also proposes a “first chance” system similar to that in New Brunswick, which gives new drivers the benefit of the doubt and lower initial premiums. These are great ideas that respond to the minister’s policy statement and would help lower rates sooner rather than later. We do not understand why the government or the opposition does not run with these.

The policy statement also encourages FSCO to implement usage-based insurance. We believe telematics could play a key role in lowering rates and look forward to working with regulators and government to enact the proper consumer protections around this model.

To conclude, we really need to get moving on providing relief to consumers. Merely passing a regulation to decree lower rates will not work. The industry needs concrete cost reduction measures to achieve the government’s targets, and we’re hoping to see these in the very near future.

Thank you, Mr. Chair. We’d be happy to take any questions.

The Chair (Mr. Grant Crack): Thank you very much. We’ll turn it over to the government side. Ms. Damerla.

Ms. Dipika Damerla: Thank you, Mr. Orr and Mr. Lofsky, for coming. I’m going to start with the whole idea of licensing health clinics, because I know you mentioned that. As you are probably aware, the government is going ahead with that.

Mr. Rick Orr: They announced it 10 months ago and we’re waiting to see how that’s proceeding.

Ms. Dipika Damerla: It is proceeding, so I just wanted to assure you. I got the sense that you were waiting for that announcement on August 23 and I just wanted to say that we’re going ahead with it.

Mr. Arthur Lofsky: I’ll just say that we know that you passed that in the budget legislation. We were

expecting to see some form of regulation because the timelines are tight. That’s why we were a little bit disappointed that we didn’t see those right there and then.

Ms. Dipika Damerla: All right, but just to know that we’re working on it. I also thank you for supporting Mike Colle’s bill. It’s good news to hear that you guys are supporting it.

I hear you loud and clear. There are two parts to the profit side. One is the fraud, and the other is the fact that we have, since 2010, reduced costs for the insurance industry by limiting claims to \$3,500 for 70% of people who have accidents. I know you’ve spoken quite a bit about the fact that we need to do more to contain fraud, and I agree with you on that. But I did want to get your sense on passing on those savings over the last two years. I heard the insurance folks earlier say that they had past losses; I hear that. Now that the past losses have hopefully been absorbed by the new profits, would you say that there is room for insurance premium cuts, just based on the fact that now 70% of accident cases are going to be capped at \$3,500, as opposed to the old \$70,000?

Mr. Rick Orr: I’d like to clarify a little bit. It’s not like we’re all of sudden taking 70% of people who used to collect \$70,000 and they’re now only going to get \$3,500. There was a great bulk of clients who always were minor injuries. They’re just contained to that \$3,500. They’ve defined it and they’ve made it regulation.

But the problem with that was, again, the backlog that hit the mediation table of some 20,000 cases. FSCO made a big announcement a month or so ago that the backlog has been moved on, and, as you mentioned with IBC, it’s been moved on to arbitration. Unfortunately, arbitration is actually more binding than mediation, so the uncertainty still rests there. Insurers have been concerned about giving up rates, but we also have to look at the bodily injury claims costs that have risen. We’ve capped that \$3,500 piece, which has just given the trial lawyers more meat to go after on the tort side, so the BI costs have gone up.

Yes, I believe there are some savings, which we’re going to see in that 3% to 5% in January, but there is absolutely not 15% savings with what they’ve delivered.

Ms. Dipika Damerla: I know fraud is a big part of the equation as well. Can you explain for us how fraud usually plays out in the auto insurance world here in Ontario?

Mr. Rick Orr: Sure, and I’ll actually use an anecdote. Earlier this year we worked with all parties in the House and did town hall sessions with different MPPs. I delivered one in an area and we talked about the fraud challenges of when you have an accident on the side of the highway and all of a sudden you’ve got a multitude of tow trucks there. I’m a small-town guy; I’m from Stratford. My biggest fear is to have an accident as I’m driving on the 401 and to have five tow trucks, these big guys, around me. What do you do? You end up getting hooked up. The stories that we hear are the tow truck drivers then taking you to a paralegal clinic or to a health

care clinic directly, getting referral fees, delivering the vehicle to a body shop and getting referral fees, and the fraud just starts to build from there.

After we delivered one of these town hall sessions, I had a young lady come up to us and say, "Everything you guys said was absolutely true. My father had an accident and he was taken from the site, in the tow truck, to a paralegal's office, where he was to sign documents saying that he wasn't supposed to leave his house because he could be photographed that he wasn't actually disabled. I took him right away and we reported this."

It reaffirmed for me that what we're just hearing anecdotally is actually true in what's happening out there, and we need to stop it.

Ms. Dipika Damerla: One of the things that I'm very interested in and very encouraged by is the fact that with the passing of the new budget going forward, an accident victim will actually get an invoice from the health clinic telling them, "We have charged your insurance company for 10 physio sessions." That's one way for a quick audit, because if it was not really 10, it gets flagged. I just wanted to hear from you: How far would that go in tackling the fraud issue as far as the health clinics go?

1530

Mr. Rick Orr: It would be a step, one of many steps. Once an accident benefit victim gets signed off onto a paralegal, that paralegal gets the power of attorney, and I'm not sure how much contact the insurance company can then actually have with the claimant, or is it going to have to go through the paralegal? And if it's a fraudulent paralegal, are you actually getting through to the—

Ms. Dipika Damerla: Well, my understanding is, the invoice would go to the patient, not to the paralegal.

Mr. Rick Orr: That would be my hope, but knowing the legal system, I'm not entirely sure that that's where we're at yet.

Ms. Dipika Damerla: We'll make a note of that, though.

Mr. Arthur Lofsky: Well, that will help with people getting charged for services that they don't know they're being charged for. But then you get into another part of the abuse spectrum, where you have, perhaps, fraudulent patients colluding with certain health care professionals, or those who aren't even health care professionals, to push things through the system. The licensing of health care clinics would get at that and we think that's why it's a significant piece of the puzzle that needs to be implemented yesterday.

Ms. Dipika Damerla: Okay, fair enough. Do you think the steps are in place, or is there something else that you want to see happen? What in your opinion needs to still happen to reduce insurance premiums in Ontario?

Mr. Rick Orr: Oh, there's the fraud piece which you've talked about, but again, we need to see those regulations actually start to get enacted. To regulate the health care and towing industry is a long-term project. It's not something that's going to turn around next week and all of a sudden happen. The fraud report was turned in 10 months ago; we're still waiting to see something. We need some action on that.

We're happy to see that Justice Cunningham is going to review the arbitration/mediation system; that needs to be overhauled. We need to get that backlog out of there so that victims get the benefits that they need, but also that the insurers get the certainty. There's the catastrophic definition that we talked about. And finally, we need to continue the product reform, because the longer it stays the same, the more they figure out the fraud and how to work into the system.

Ms. Dipika Damerla: Okay. So we've spoken about three signature things that the government is doing: We're licensing the health care clinics; we're making sure that patients get a copy of their invoice; and we're also going to go ahead—and I think FSCO has much more power when it comes to investigating fraud as well. These are some concrete steps that we've taken.

Another step that we have taken is reducing the target internal rate of return, from 12% to 11%, for insurance companies. Could you tell us what role that might play in reducing insurance premiums for everyday Ontarians?

Mr. Rick Orr: Personally, I don't see it as driving a great reduction in premiums. When they're achieving an average of 4% over the last 10 years, reducing their target profit from 12% to 11% isn't really much of a factor, I think. When they're filing rates, they choose that they can put in up to 12% profit. Again, in a competitive nature, not all of them may file for that full profit that they're allowed. It's certainly not a guarantee; it's a factor they can build into their rate. Reducing it will certainly help. But when they're only achieving a 4% ROE now, reducing from 12% to 11% isn't going to save the consumer their 15%.

Mr. Arthur Lofsky: Even if you cut it in half, it wouldn't make a difference at this point, because they're making less than 6%.

Ms. Dipika Damerla: Okay. Thank you very much.

The Chair (Mr. Grant Crack): Thank you. We'll move to the official opposition. Mr. Yurek.

Mr. Jeff Yurek: Thank you, Chair. I'm going to pretend I'm Michael Colle for a second because he's very effective when he does this. I'm getting calls at my office—I'm sure all of us are getting calls in our office: "Where's my 15% reduction? Why haven't I received it yet?" Do you hear that a lot, and how are you handling that situation? Why haven't all Ontarians received their 15% decrease?

Mr. Rick Orr: Well, first of all, you need more grey hair if you're going to pretend to be Mike Colle.

Mr. Jeff Yurek: And a little more excitable, yes.

Mr. Rick Orr: A little more, yes.

The day the government announced their 15% reductions, the emails started coming into my office saying, "Where's my 15%? Where's my 15%? When am I going to get it and why haven't I got it yet?" The message that we're constantly having to deliver is that it's a targeted average of 15%.

Originally, the announcement was that it was a targeted average of 15% to be achieved along with the savings from fraud. Reduce fraud and the rates will come

down. Then, in August, the announcement came out that it was going to be mandated over the next two-year period.

It's difficult. I'm in rural Ontario, and I have to tell our guys, "Guys, the original announcement was: 'Drive the fraud out and rates are going to come down.'" In Goderich, Ontario—you know, take the fraud out and you're going to save 1%. You're not going to see 15% savings unless insurers decide to take it out of the rural areas and try to leave as much rate as they can in the GTA, where they're combatting the fraud.

Mr. Jeff Yurek: So how are the rural areas going to attain the 15% decrease?

Mr. Rick Orr: Well, they won't, and that's part of our problem. The government isn't delivering a responsible message. You know, a responsible rate reduction needs responsible messaging, in that it's a 15% on average discount across the province. Measure it on the benchmark and you're going to see a 15% reduction, but that doesn't mean everyone is going to see a 15% reduction.

Mr. Jeff Yurek: So it would be safe to say that rural Ontario and northern Ontario are not going to see a 15% rate reduction?

Mr. Rick Orr: In my opinion, I would certainly not expect to see it.

Mr. Jeff Yurek: Okay. Now, the big key to the rate reduction of whatever they're going to try to get, other than an across-the-board cut from the insurers mandated by FSCO, is that they want to go after fraud, which I think is a great idea. The task force had a report with 38 recommendations. There's only been a handful implemented. There has been a lot of talk and conversation about implementing the rest of the procedures over the last two years. I think it's a fairly slow process in getting these implemented, whereas fraud is not going to disappear overnight; it's going to take a longer time period. The longer for the implementation of these fraud measures to take place—do you think they're going to hit their 15% after two years with the lengthy delays that are going on?

Mr. Rick Orr: We're very concerned that they won't. We're 10 months into it and we have four of 38 recommendations implemented, with the major ones still outstanding, which is the health care clinics and the towing industry. We're hearing a lot of talk about it; we're not yet seeing the regulation coming out.

There are going to have to be hearings, there are going to have to be—you can't just implement that regulation. There's a lot of work to be done to get there, and 10 months in, we're not seeing it. We're concerned that consumers are going to not see that 15% savings. In fact, we're concerned about an affordability/availability issue. We're concerned that if they've mandated a 15% reduction and you've got the public in the GTA that's saying, "I want my 15%"—an insurer can't be legislated or regulated to lose money. They're going to figure out a way to get around it somehow and we're already hearing rumours of GTA insurance companies cancelling GTA

brokers and just—you know, I'm going to lose less money if I insure less people, so I'll just throw these people out to the street.

Mr. Jeff Yurek: Go further on that. You're hearing in the GTA that in fact insurers will not have their product in place, so they're getting rid of the brokers that are giving them problems. So number one, there are fewer choices for the consumer, especially newer Canadians, newer drivers who don't have the history, and number two, there's a possibility brokers won't have the product to sell and therefore they might lose their business. Is that a possibility?

Mr. Rick Orr: That's certainly the rumblings you hear. When you mandate an industry to lose 15%—you take a 15% premium out without delivering them a cost savings, an industry can't survive. Then all of a sudden, your whole mandate was to save 15% for those new and young drivers and they end up in the Facility Association, which has the highest rates in the industry. That's the market of last resort. That's where they end up going. The last hard market was 2004, 2002. Facility represented 15% of the auto population in the province of Ontario. It's down now to less than a point. If we have another affordability/availability issue, the Facility market will repopulate.

Mr. Jeff Yurek: So if Facility was high—and Facility is the insurer of last hope. So if an insurance claimant can't get insurance, they have to go to Facility and that's—

Mr. Rick Orr: And Facility has to insure.

Mr. Jeff Yurek: So it's showing that the saturation of insurers is providing product for enough people.

Mr. Arthur Lofsky: This is our main message today, that if the government is pushing too hard and there's too much pressure and something has got to give, we're worried that the unintended consequence could be higher rates for some people and an affordability and availability issue.

Mr. Jeff Yurek: You raised the question earlier about bodily injury claims have started to skyrocket. Why is that occurring? What's going on?

Mr. Rick Orr: You've capped the minor injury guideline to \$3,500. People are looking for more relief, so they're going to the court system and accessing tort through the BI instead.

Mr. Jeff Yurek: To me, that's a warning signal. If that's occurring now, two years down the road, we're going to be at the same committee table talking about how we can get bodily injury claims made affordable. What are the NDP and the government doing to mitigate the bodily injury claims?

Mr. Arthur Lofsky: I don't know.

Mr. Rick Orr: Silence at the end of the table.

Mr. Arthur Lofsky: Not specifically on the bodily injury claims. If we could get at the fraud issue and deal with the incentives for fraud and abuse, we think all of this stuff could come down. If you get at the health clinics and the tow truck folks who are not behaving properly, the long-term benefit will be a reduction every-

where. That's why we're concerned that things aren't moving fast enough.

1540

Mr. Rick Orr: As a representative of the consumer, it's our intent to get the coverage to the consumer, the benefits that they need to get better and get them healthy and back on their way. We don't need the abuse in the system. IBC said it nicely: We need a cultural reform. We need the health care industry, we need everyone involved in the auto industry to get back to where it once was. Let's just do the right thing: Get the consumer back healthy, get them back to work and get what they need to be done, and stop everybody from trying to make their entire profits off the auto industry.

Mr. Jeff Yurek: So what I'm hearing is, I think, your concern would be that if the government's dragging their feet, getting these changes to occur, we're going to come to crunch time on their mandated promise and we might end up regulating that FSCO makes every insurer drop their rates 15%.

Mr. Arthur Lofsky: We just don't see 15% in cost savings that will justify a 15% reduction within two years at this point in time.

Mr. Jeff Yurek: Okay. How much time have I got there?

The Chair (Mr. Grant Crack): Two minutes, 18 seconds.

Mr. Jeff Yurek: Two minutes, 18 seconds. I just want to touch upon a product out there, telematics. You had a press release out a week ago on it. Let's talk about technology in the marketplace and how that might bring savings to the marketplace.

Mr. Rick Orr: One of the pieces that was in the budget and again in the policy announcement was usage-based insurance, or telematics. We strongly believe that telematics could help reduce premiums in Ontario. However, I want to be very clear that telematics is just another rating tool. It still delivers the same product, so you're still going to deliver the same accident benefits to the same health care providers and the same tow industry. It's just another rating method. We can't lose focus on the rest of it.

In telematics, the device is installed in the vehicle, and the insurer has access to different rating criteria or just the different driving habits of that driver: their acceleration, their deceleration, their cornering, their kilometres driven. It's become popular in the United Kingdom. It's starting to become popular in the United States. In Ontario, we believe that it's another tool we can offer to consumers to reduce their premiums, but we're very concerned about the consumer protection around it. We can't just make this the Wild West. There's a lot of private information that needs to be there. We've been working with the regulators and meeting with the three parties to talk about how the consumer needs to own their own data; it's not the insurer's data. That data needs to be portable; the consumer needs to be able to take it from one insurer to another, and the insurer should be limited only to the data that they need to rate that policy, not to

all the other data that could lead to lifestyle rating, which is currently banned and should remain banned.

Mr. Jeff Yurek: Would a file-and-use approval system benefit telematics?

Mr. Rick Orr: In the long term, yes, but not in the short term. In the short term, FSCO needs a number—and reasonably so. FSCO needs a reasonable number of data points and history for an insurer to demonstrate that they're actuarially sound when they present their rating criteria. I fully support FSCO in getting this right off the start. Once they've gotten it established and once the insurers understand how it's going to work—because this is all new to them—then a file-and-use system would benefit them, but that would be in the long term, not in the short term.

Mr. Jeff Yurek: Thank you.

The Chair (Mr. Grant Crack): Thank you. Right on time. Good job.

The members of the third party.

Mr. Jagmeet Singh: Thank you very much. I'm just going to take you through a couple of areas. We're well aware of changes to the insurance product in 2010, and you agree with me, and I think it's not contentious—IBC also agrees—that those changes removed about \$2 billion of cost from the system. In the GTA, about a 70% cost reduction happened within one year alone, from 2010 to 2011. Do you agree, roughly, with those numbers?

Mr. Rick Orr: No, I don't. That's completely the accident benefits savings. You're not putting in the costs that went in on the BI side. So that's a false savings. You're looking at one line instead of looking at the product.

Mr. Jagmeet Singh: Sure. So let's just talk about one thing at a time, then; I think that's fair to say. On the SAB side, you saw a 70% reduction, in the ballpark of multi-billion dollar saving, in terms of costs to insurance companies on the SAB side. That's something that's not contentious.

Mr. Rick Orr: There was a savings. I don't know what the exact number was. IBC's report had it in there, but there was a savings on the accident benefits side.

Mr. Jagmeet Singh: Right, the accident benefits side.

Mr. Arthur Lofsky: For the sake of argument, if those are correct, and I take you at your word, that helped stem the losses that were coming at the industry. If those cost reductions and reforms did not occur, rates would probably have had to go up another 10% to 15%.

Mr. Rick Orr: In fact, I think if you look at the 2010 reforms, they were called a rate stabilization act; they weren't called a rate reduction act. They were actually deemed as a rate stabilization, knowing that the industry needed to stop the bleed.

Mr. Jagmeet Singh: The finance minister at the time, actually, Dwight Duncan, indicated that the reason that he was doing this was, very clearly stated in Hansard and I've quoted it a number of times, to actually reduce premiums. But the point is that you acknowledge, and I think we all acknowledge, that costs were significantly reduced because of that. A vast majority of those costs—

it was a 70% reduction in costs in the GTA. Does that sound like something that accords with what you—

Mr. Rick Orr: I know there was a reduction. I know it was only in the AB, but I don't have the IBC report in front of me, sorry.

Mr. Jagmeet Singh: That's fine. In terms of fraud, and fraud, obviously, just to make it clear—I don't think any party here would say that they support or encourage fraud in any way. Everyone discourages that practice. That's something that none of us want to see in any industry, let alone insurance. That's not something that we want to encourage. It's clearly illegal, so we don't support that.

With respect to fraud, you would agree with me that in terms of the anti-fraud task force—they made it very clear that we don't know the exact figure of how much it's costing Ontario in terms of any sort of concrete number. That's something that you're—

Mr. Arthur Lofsky: They did have an estimate of, I think they said, \$1.3 billion to \$1.6 billion per year.

Mr. Jagmeet Singh: That's fair.

Mr. Rick Orr: So give it a range, but it was \$1.3 billion to \$1.6 billion.

Mr. Jagmeet Singh: Right. The task force made it clear, though—I asked in committee hearings, and the chairperson of the task force said, "We don't have a factual number. We don't have a clear number we can point to. We have an estimate. We don't have a factual number where we can say, 'Fraud is accounting for this much right now in the province of Ontario.'" They're not able to say that. That was a fair comment, and I think you'd agree with it.

Mr. Arthur Lofsky: That's the nature of fraud. It's hard to record. You can do comparisons to other jurisdictions of what's going on. You can look at the increase in accident benefits over the years, the increase in people who are injured, and when you see a disconnect, you can make some interpolations, I think. I think that's what they were getting at when they made their estimate.

Mr. Jagmeet Singh: Right. One of the interesting things that happened is that when we placed a cap, the minor injury guideline cap, which applies to about 70% of people who make a claim in Ontario—they fall within the minor injury guideline, and that means that they're only entitled to about \$3,500 of coverage. That significantly addressed many of the fraud concerns. That's why much of the costs went down. This is, again, non-contentious. You would agree with that comment as well, that it's a non-contentious issue?

Mr. Rick Orr: Yes, there was a reduction in the number, but again, there were a lot of people that were already under \$3,500. They were all minor injuries to start with. It was just defined within the regulation. But then their other concern was that everything ended up going to mediation and sitting in mediation.

Mr. Arthur Lofsky: Coinciding with that, there probably were a lot of disputes that arose out of that.

Mr. Jagmeet Singh: Sure. So what's happened is, we've seen a significant reduction in costs. We've seen

costs being reduced in particular areas. But in terms of the premiums, from 2010 to present, they've actually increased by an average of 4%. This quarter in 2013, the reductions were less than a percentage point. I believe in 2013, the quarter 1 and quarter 2 total was still less than 0.5%, and in previous years, it was in the 0.02% and 0.03% range. So again, we're talking about less than half of a percentage point reductions. We're seeing premiums have still increased.

Given that there's been a reduction in cost but no reduction in premiums, do you see the concern that citizens in Ontario have that our benefits are reduced, costs have gone down, but premiums have actually increased from 2010 to present? I'm sure your consumers, your clients, are concerned with that, that the optics here are that insurance companies are getting a benefit, we're losing our benefits, our premiums are going up and their costs have gone down. It doesn't seem to add up to the average Ontarian.

Mr. Rick Orr: Actually, in my area, my consumers are enjoying a reduction in premiums. But the flaw in your argument, again, is that you're looking at a reduction in costs on one line and comparing premiums overall. You've got fraud going on. You've got the BI costs going in. So insurers are transferring rates out of their rural areas and placing them in the GTA where they're suffering losses. Rates are staying relatively stable, but the areas that don't have the fraud are enjoying reductions already.

Mr. Jagmeet Singh: So the question is, if we had a transparent and accountable mechanism to accurately display or demonstrate what the profits were in the industry, would you agree with me that if we could unequivocally state that the insurance industry was making record profits, unequivocally confirm that the insurance industry was making record profits, unequivocally confirm that the insurance industry was making well above the between 1% and 3% or 1% and 4% ROE they were making—if we could conclusively state that, it would certainly make the case that they could pass on some of those savings to drivers.

1550

Mr. Rick Orr: I think the OSFI data and the MSA data—

Mr. Jagmeet Singh: That's not my question. Just to clarify—

Mr. Rick Orr: —unequivocally say that they're losing money.

Mr. Jagmeet Singh: I didn't mention OSFI or GISA.

Mr. Rick Orr: I know you didn't. You're asking if we need something, and I'm saying no, we don't. We already have OSFI and MSA.

Mr. Jagmeet Singh: Here's my question, sir. My question is not that. My question to you is, if we could demonstrate that there was a significant profit—not that there is or isn't one, because I understand that in your position there isn't one—you would agree that it would make sense then to pass some of those savings on to drivers, that it would make sense, if the industry was

making significant profits and a significant return on equity, to pass on some of those savings to consumers. You would agree with that? I'm assuming that that's quite reasonable.

Mr. Arthur Lofsky: I think the OSFI numbers are reasonably transparent right now—

Mr. Jagmeet Singh: Sir, I didn't mention anything about OSFI.

Mr. Arthur Lofsky: But I'm saying, of course, if we knew definitively—and OSFI is one of those places where you go for these things—that they were making lots of profits, yes, we would like to see rates come down. But you have to look at how the industry behaves over the years. After 2004, profits did go up and then rates did come down, eventually up to 14%. So there were reforms made. They identified cost savings. They were allowed to file again and the competitive part of the industry allowed for a 14% reduction.

This time, we've had a stabilization of rates, I believe, because of the 2010 reforms, because they were losing, but there haven't been any further cost savings. The fraud reforms will provide some of that. Redefining the catastrophic reduction will provide more of that, but I would contend that if they were making profits right now—the type of extraordinary profits you're talking about—you would see rates going down naturally.

Mr. Jagmeet Singh: Sure. I'm hoping you can respond to two of my questions. I'm not going to mention GISA or OSFI, so I'm hoping you're not going to just randomly throw out those responses. My question to you is not about GISA or OSFI. Would you support an independent, clear and transparent mechanism for accounting for the profits in the province of Ontario? Is that something that you would support?

Mr. Arthur Lofsky: I don't think anyone can oppose something put in that fashion.

Mr. Jagmeet Singh: Okay. The second question I have for you is, if we were to look at this—I'm going to channel my inner Mike Colle as well.

Mr. Rick Orr: Wow. He's popular in here.

Mr. Arthur Lofsky: I like him very much.

Mr. Jagmeet Singh: Maybe you can give me your perspective. If I operated my own clothing store and in my clothing store I was noticing a significant increase in shoplifting, would it make sense to you if I was to then take my concern about shoplifting in my store and go to the Ontario provincial government and say, "You need to do something so that shoplifting decreases in my store," or would you expect that each industry would take certain steps on their own to ensure that they're reducing costs in terms of shoplifting?

Why is it that the insurance industry seems so bent on obtaining the assistance of the provincial government? We support the reduction of fraud. But just to understand, why is it that an industry with a mandatory product that everyone in Ontario has to obtain doesn't have its own mechanisms in place to address these concerns? Why is it that they're any different than any other industry?

The Chair (Mr. Grant Crack): Final response.

Mr. Rick Orr: Because in your clothing store, the government does not regulate the price of your suit or the quality of your suit or how you handle the suit. In our industry, government sets the benefit and government sets the price. The only way that we can really come to you and ask for help is on a global basis. It's a regulated product. It's a regulated price. It needs to have regulated controls.

Mr. Jagmeet Singh: Interesting.

The Chair (Mr. Grant Crack): Thank you very much, gentlemen. I appreciate it.

Mr. Rick Orr: Thank you very much.

Mr. Arthur Lofsky: Thank you.

ONTARIO REHAB ALLIANCE

The Chair (Mr. Grant Crack): I believe we now have two members from the Ontario Rehab Alliance with us today, Mr. Gurevich and Ms. Davis. Welcome.

Mr. Nick Gurevich: Thank you, folks. For some reason I feel a very strong urge to apologize on behalf of every health care provider for the fraud that every single health care provider out there is committing, but let me assure you that that is not the case, not even remotely the case.

The Chair (Mr. Grant Crack): You have five minutes, sir, and then we will begin the rotation with—I believe the official opposition will start, then the NDP, followed by the government. Welcome.

Ms. Laurie Davis: Thank you. We're happy to be here. I'm Laurie Davis, the executive director.

The Ontario Rehab Alliance is an association representing 90 health care organizations with about 3,500 to 4,000 health care professionals, including physicians, neuropsychologists, physiotherapists, occupational therapists, speech pathologists, chiropractors, psychologists, social workers, rehab support workers, personal support workers and case managers. It's these professionals who are the primary providers of health care and rehab services to Ontarians who are injured in auto accidents.

I also want to say that a great many of our members, a very large proportion of them, also work outside of the auto insurance sector.

The Chair (Mr. Grant Crack): Sorry to interrupt. Could you pull back a little bit? There's a lot of static when you speak too close.

Ms. Laurie Davis: Is that better?

The Chair (Mr. Grant Crack): Yes. That goes for all members here who are trying to speak as well. Thank you.

Ms. Laurie Davis: Thank you; sorry.

I just wanted to point out that our members are, of course, concerned about auto accident benefits, but they're not wholly dependent on this sector. We do work in other sectors as well. There was a comment earlier which led to that sort of impression.

Mr. Nick Gurevich: My name is Nick Gurevich. Our organization appeared before a number of parliamentary hearings on the topic of auto insurance over the years. Every time we appear, we note that in order for Ontario's

auto insurance system to be stable, there needs to be a balance between insurer profitability, cost of premiums and the protection of victims.

These three pillars are now, and have been for the past three years, in a state of disequilibrium. Simply stated, the past reform has sacrificed premiums and protection to increase insurer profitability. According to information published by GISA and in recent newspaper articles, in 2012 almost 60 cents out of every accident benefit premium dollar collected in Ontario went toward insurer profits. Ontario currently has the highest profitability on accident benefits and the lowest payouts in the country.

Notwithstanding, faced with the government's call to pass some of the savings stemming from the last set of reforms to consumers, insurers now ask for more cuts to benefits to protect their profitability.

I am here to tell you that there is simply nowhere to cut from when it comes to health care. Despite what you might hear from insurers and brokers, the facts on the ground are simple: Following the 2010 reform, we have the worst health care benefit system in Canada—the lowest, I should say. Our system has drifted far away from the original intent of the insurance product, which is to protect premium payers in the event of loss or injury. Any further cuts will simply render it a road tax.

Approximately 65,000 Ontarians are injured each year in motor vehicle accidents, enough to populate a good-sized town. These victims suffer from a double-pronged offensive: On the one hand their paid-for auto insurance health care benefits have been drastically slashed, and on the other hand, OHIP offers substantially less in-patient/outpatient and home care health care services than any other province in Canada. In summary, outcomes experienced by car crash victims are devastating.

If something needs to be done to decrease premiums, it cannot be at the expense of more cuts to health care benefits.

The government is on the right track with the steps it took recently, specifically those addressing fraud in the system, mandatory rate filings, savings to drivers with clean records, licensing of health care facilities etc. While we are unsure whether the magnitude of premium cuts needs to be 15% or when such savings need to be realized, we are confident that the above-mentioned measures, combined with reductions in insurer profitability more in line with other provinces, should easily achieve the desired reductions.

Whatever your action is, please do not abandon your responsibility to protect the vulnerable victims.

The Chair (Mr. Grant Crack): Thank you very much. We'll start with the opposition: Mr. Yurek.

Mr. Jeff Yurek: Thanks very much for coming in. I just want to talk about assessments for a bit. A lot of times what I've read and seen is assessments tend to be major cost drivers in the system. Can you walk me through the assessment process and if it has changed or not, let me know?

1600

Mr. Nick Gurevich: Sure. The process is fairly simple. A client has the right to receive their health care

benefits. In order for those health care benefits to be provided, the first step, as it would be in any hospital that you walk into or if you go to see your family physician, is they would assess you to figure out what is wrong, if anything, and they would make recommendations that you then need to be sent for treatment, if it's required, and those recommendations need to be preapproved by the insurer.

The insurer then has the right to either approve the treatment plan or deny it. If the insurer decides to deny it—before the 2010 reforms there was a mandatory call for them to seek a second opinion by another health care provider because there was a realization that the adjusters themselves are not health care providers, and then they would appoint their own hired consultant who would advise on whether the original treatment plan submitted was reasonable and necessary or not. As part of the 2010 reforms, the mandatory aspect of providing that second opinion has been waived. So insurers do not have to now hire another assessor in order to approve or deny a treatment plan.

So based on that alone, assessments have been substantially decreased. I do not have any sort of empirical data on it, but anecdotally from speaking to colleagues who perform what are called IEs or insurer examinations, the number of assessments that they conduct has decreased by upwards of 50%.

The 2010 reforms also addressed the issue of assessments or of assessment cost in the way that it limited the assessment cost to \$2,000, and it also limited assessment by clients in the home only to those who are outside of the minor injury guideline or category. So those three approaches, taken together, have significantly reduced the cost. Again, we don't know to what extent because we don't have access to HCAI, and won't be given any, but anecdotally speaking the decrease has been very substantial.

Mr. Jeff Yurek: Thank you. Now, would instituting independent peer-to-peer assessments help reduce the number of assessments and speed up the system?

Mr. Nick Gurevich: I'm sorry. I didn't hear because of the traffic—

Mr. Jeff Yurek: Sorry. The traffic, yes. Independent peer-to-peer assessments, would that help alleviate the number of assessments and speed up a person getting the treatment that they need?

Mr. Nick Gurevich: Well, I think that not only would it help in doing that, but it would also eliminate some of the disputes that are in the system because some of the disputes that are in the system stem from the fact that one physician or one health care provider would provide an opinion as to what a treatment protocol or recommendation should be, and then an insurer would hire another health care provider from a completely different profession to comment on those recommendations, and I think that then perhaps the plaintiff representation might take issue with that and say, "Well, we don't know if this is right or not because it's not a like-to-like discipline," and perhaps proceed to dispute.

Mr. Jeff Yurek: Now, there's no question that those mostly severely injured need to access adequate coverage—someone who's lost their legs or has become mentally impaired—and I feel there's no question they should be looked at as catastrophic and have access to full benefits. How often do these claims get held up and what barriers are there for people to get the coverage they need?

Mr. Nick Gurevich: Are you asking what are the barriers in terms of qualifying people as being catastrophic, or once they are catastrophic?

Mr. Jeff Yurek: Becoming catastrophic.

Mr. Nick Gurevich: There are a number of aspects here at play. Number one, there needs to be an application made to the insurer to deem a client catastrophic. An insurance company can, of course, dispute that and get their own experts to say why the patient is not catastrophic. That can carry on for a prolonged period of time.

The unfortunate consequence of that is that in our literature it is very well documented that medical intervention and rehabilitative intervention is much more beneficial in the early stages. If the patient was made to wait, then chronicity would set in and their return to function would be either substantially delayed or will never get there. So that is certainly a major difficulty and barrier in terms of what catastrophic clients face.

Mr. Jeff Yurek: In terms of the catastrophic impairment panel, can you outline what you think were the strengths of that panel and the weaknesses?

Mr. Nick Gurevich: I would say that tying the catastrophic definition to science is a good move, and we certainly indicated that in the reports that we've previously submitted, which critiqued the work of the panel. But I think the problems with the panel specifically were that (a) I don't think that they were given enough time, and (b) the composition of the panel itself needed to include more treating physicians. I think it failed in that regard. There were a couple of treating physicians, but for the most part, the other six were not. We thought that that was a problem. The other problem was that a number of the folks on the panel have done previous work for the insurance industry, and we were concerned about bias that they might have been bringing forward.

Mr. Jeff Yurek: With the imposed deadline of a year for a 15% cut and the slowness that the government is moving on this, what's probably going to happen, after what we're talking about today, is that they're just going to have to impose a 15% cut on the insurance industry to make good on their promise. What do you think that will be, the effect on the insurance industry and your patients in particular, if there's a straight 15% cut?

Mr. Nick Gurevich: There's no question that a 15% reduction in premium will cause some sort of an erosion in insurer profitability. I don't know what that will be, but just by looking at GISA numbers, some of that can be extrapolated fairly easily. In preparation for this, I did some back-of-an-envelope while looking at the numbers, and I think that a 15% reduction against strictly looking at the GISA numbers will render it more in line with what's experienced by the other provinces.

Mr. Jeff Yurek: But what do you think would happen if they just cut 15% to coverage for the clients?

The Chair (Mr. Grant Crack): One minute.

Mr. Nick Gurevich: Oh, 15% coverage in terms of benefits.

Mr. Jeff Yurek: A 15% cut in the premiums. They just cut away without making any of the changes that they're trying to implement because they're running out of time. What would be the result?

Mr. Nick Gurevich: Just from a premium perspective?

Mr. Jeff Yurek: Yes.

Mr. Nick Gurevich: Yes, so what I'm saying is that there would be erosion in profitability; there's no question.

Mr. Jeff Yurek: It wouldn't affect the clients at all?

Mr. Nick Gurevich: It would not affect them if there was no corresponding change to the benefit structure, but I think that what's on the table right now, for example, are amendments to the catastrophic definition, which we think that, if proceeded with as recommended, would substantially decrease the number of people who qualify as catastrophically injured today. That would, of course, lead to a problem.

Mr. Jeff Yurek: Okay, thanks.

Chair.

The Chair (Mr. Grant Crack): Fine, thank you. Right on. Unbelievable.

We'll move to the third party, Mr. Singh.

Mr. Jagmeet Singh: Thank you for attending. I just want to build on that last question—the modification of the definition. What are some of the key problems to the proposed changes to the catastrophic definition?

1610

Mr. Nick Gurevich: I'll answer it from a high-level perspective. From a high level, the problem is that that line in the sand—again, it's not a scientific line in the sand; it's really a policy line in the sand—of who is considered catastrophic is very uneven. What do I mean by that? What I mean is if you take—you know, historically speaking, somebody who is a paraplegic was determined to be catastrophic, and everyone with the same level of injury, as defined by what's called a WPI, or a whole person impairment scale, was considered to be catastrophic as well; okay?

The whole person impairment scale, not to get too technical, is basically a process by which every impairment is rated, and then there's a sort of addition process. If somebody qualifies to 55%, then they're catastrophic. Paraplegia, for instance, would be an example.

However, with the new proposed definition, depending on the impairment—various impairments and the test scores that are required as per that new definition would vary the level of that whole person impairment that would qualify. I'll make it easy: Somebody with paraplegia would be 55% and they would qualify, but for a psychiatric disorder, based on the test that has been proposed by the panel, the score that they require would equate to 70% on the whole person impairment scale.

That theme carries throughout the recommendations, that there are different scales and they don't all equate. The line needs to be equal, and that was one of the points that we were trying to get to in our critique.

The other obvious issue is the lack of combination. It has been proven in the literature. We have case law that supports combination of physical and mental-behavioural impairments. The panel has disallowed that in their recommendations. One of the reasons that they gave was that they simply didn't have enough time or resources to figure out a good solution. That, in my books, is not a good recommendation.

Mr. Jagmeet Singh: And just to build on the last point, one of the reasons why, in many ways, psychological impairments were, let's put it this way, biased against in the definition—you would not be considered catastrophic unless you reached a very high threshold of psychological impairment. One of the reasons that people have mentioned for that problem or that criticism is because of the modified delta system that was employed in the panel and the fact that there weren't enough specialists or experts in mental health that were on the panel to make that modified delta system work. Do you agree with that assessment?

Mr. Nick Gurevich: Yes. But let me give you an example of this combination issue. Loss of my hand would be 54% on the whole person impairment scale. It is absurd to think that I will not have psychological issues as a result of the loss of my hand. What the panel says is that those two should not be combined.

Mr. Jagmeet Singh: That's a good way to put it.

The other issue I wanted to talk about is, what have you seen in terms of the impacts on the new changes, the changes in 2010—I guess they're not new anymore—the impact that the changes in 2010 have had on the assessment and the accessibility for people in northern regions or more remote regions or more rural regions, where they don't have as many resources, particularly psychiatrists or other experts or other medical professionals that they need to meet with in order to get diagnosed or be assessed for whatever level of care is appropriate? What has been the impact that you've seen?

Mr. Nick Gurevich: Part of the problem—Laurie, feel free to jump in—has been this \$2,000 cap on assessments. The problem is that for the remote locations, the cost of transportation would be higher and, as a result, would exceed the \$2,000. Again, the anecdotal evidence that we've been exposed to suggests that fewer people are interested in servicing the remote areas.

Ms. Laurie Davis: Absolutely. Although we do have some members, and we know there are health providers outside—and we don't even have to be talking about “remote” to be talking about how quickly a distance needs to be travelled—a four-hour drive from Toronto and back. There aren't as many providers outside of the GTA or even outside of southern Ontario. As a result, there are real barriers to people who are remotely or rurally located because even something like an occupational therapist, let alone a neuropsychologist—even an

occupational therapist who has skills in this field may not be local to somebody living in the countryside outside of Sault Ste. Marie.

Mr. Jagmeet Singh: So would perhaps the solution be that in circumstances where people who reside in remote areas there's a different budget assessed because of the travel demands or requirements of people who live in more remote communities? Would that work to address that systemic barrier that exists?

Ms. Laurie Davis: Absolutely. There should be some way of flagging travel costs or it will just continue to be a barrier for people outside of the GTA.

Mr. Jagmeet Singh: One of the things you mentioned is a scientific or an evidence-based model for—this is, again, looking at the catastrophic definition. Looking at a scientific or evidence-based model is something that, of course, you would support, but is there any evidence or an evidentiary basis for even modifying the definition? Have you seen, in any of the discussions or reports, that there was any sort of evidentiary reason or basis for even redefining or looking at modifying the definition? Has that ever been presented?

Mr. Nick Gurevich: We were curious about the same point, and we actually tried to find any background information that we could on any costs to the system based on cat. They're impossible to locate. But I will tell you this: Regardless of the fact that someone is deemed catastrophic, there's a misconception out there that if I'm injured and I'm deemed catastrophic, I have access to all this money, which is absolutely untrue. In fact, there's a secondary test that the patients need to pass in order to access those funds. All that the catastrophic designation does is show you the door. But in order for me to walk through that door, I need a key, and that key is “reasonable and necessary.”

If a treatment provider, a health care provider, recommends a course of treatment to a catastrophically injured victim, the insurer still has to deem it reasonable and necessary. If they don't think that it's reasonable and necessary, they can deny it. They can, in fact, deny it without even calling for a second opinion today. But they do have that ability and there is that secondary test. So a designation doesn't mean an automatic consumption.

Mr. Jagmeet Singh: A question for you flowing from that is that—just to clear up a further misconception, there is this notion that if you're deemed catastrophic, then you receive a \$1-million cheque. That's the idea, and I think you're clarifying that. In fact, it means that you've been given the authorization to access funds, but there's that secondary step that you have to go through to even access those funds—

Ms. Laurie Davis: You get authorization to apply.

Mr. Nick Gurevich: To apply.

Mr. Jagmeet Singh: There you go.

Mr. Nick Gurevich: That's all you're given.

Ms. Laurie Davis: I'll just weigh in. That's true for right across the accident benefits scheme. That's also true for the serious, non-catastrophically injured. Earlier somebody made reference to this. I think it's very im-

portant for everyone to realize that there's no treatment provided that has not been previously applied for and approved by an adjuster. Just as catastrophic isn't a cheque for \$1 million, neither is a serious injury a cheque for \$50,000, and neither, even, is a minor injury a cheque for \$3,500. All of those have checks and balances built in with each treatment plan and with each invoice.

1620

The Chair (Mr. Grant Crack): Thank you very much. We appreciate it. Time's up. We will now move to the government: Madam Damerla.

Ms. Dipika Damerla: Thank you, Laurie and Nick, for coming. I just wanted to start by asking you, because you're so close to the field, can you explain in which category of injury that fraud is most often found, and why?

Mr. Nick Gurevich: In my opinion, I would suggest that it's in the minor injury. I would suggest that no reasonable person will sustain a catastrophic injury or become a quadriplegic to ensure some sort of funding, which, by the way, then also needs to be reasonable and necessary.

I would suggest, or my best guess would be, that if someone is committing fraud, it would be in the minor injury, because the injuries are short-lived, if at all sustained, and are difficult to prove. A fracture is easy to show. A lot of these accidents are staged and, in fact, don't even take place. Whiplash is easier to fake than a broken arm or an MRI of the brain.

Ms. Dipika Damerla: Okay, fair enough. You're probably familiar with one of our initiatives that we passed in the budget, which is to license health care clinics that service the auto insurance industry. I just wanted your thoughts on it.

Mr. Nick Gurevich: Fully in support.

Ms. Dipika Damerla: How far do you think this will go in eliminating fraud?

Mr. Nick Gurevich: You mean the licensing?

Ms. Dipika Damerla: Yes, the licensing.

Mr. Nick Gurevich: We were one of the groups that appeared before the anti-fraud task force—as a matter of fact, we appeared before them a number of times—and we recommended the licensing of health care facilities. I think it's an important step in terms of getting to know who the provider of services is.

Believe me when I say that we are not less enthusiastic about getting rid of fraud than the insurers or the government, because, as you could hear, we're all implicated in this. A small minority represents those folks, and we're all at fault here, regretfully. So we are very much interested in making sure that the licensing is passed. We are obviously interested in making sure that it addresses fraud, because I think it's to everyone's benefit to have a stable system in place.

Ms. Dipika Damerla: I'm sympathetic to what you're saying. It's unfortunate. I think we're sensitive to the idea that not everybody ought to be tarred with the same brush. I think most of us do acknowledge that it's a small minority that might be abusing the system. The vast

majority are indeed ethical clinics. I just wanted you to know that.

My other question is, would you be able to share if there are any warning signs that a claimant can look for, to know if fraud is being committed on their behalf?

Mr. Nick Gurevich: Hard to tell. I heard somebody ask the question before, about invoices being sent to clients. That is in fact the case; they will be sent to the clients. It's a new addition to the regulation that dates back to the spring. I think it's a very positive one. They can certainly take a look at a copy of an invoice that has been submitted on their behalf and confirm whether that is in fact correct or not. That's a great step, I'm sure, in the right direction and one that will contribute to early identification. But generally speaking, I think if a client is used as a pawn in a fraud scheme, for the most part it involves billing, because money needs to flow in order to make it profitable for the person who commits the fraud.

I can't think of anything else—at least, nothing comes to mind right now—that will improve on the provision that already exists, which is checking what money actually flows out.

Ms. Dipika Damerla: As we look to reduce premiums gradually, and on average—that's really important to stress—by 15% over the next couple of years, what is your biggest concern?

Mr. Nick Gurevich: Our biggest concern is that in order to mitigate some of the pain to the insurers, which they are complaining about, it will be taken out of the benefit system. Our benefit system, the last time around, in 2010, has been significantly cut. We are faced with a \$3,500 minor injury guideline, which is the lowest in the country, and it applies for the vast majority of the claimants out there.

We have a non-catastrophic limit of \$50,000, which in fact is not really \$50,000; it's something much smaller because assessment costs come out of it, so it's not real treatment that clients receive, it's something smaller. Then we have 600 or so people a year who qualify for catastrophic, which does not in fact exist in any other province, and that's a positive, but that's also under attack.

If you take a weighted average of those three buckets and what's available and apply the percentages of people who represent each bucket, we in fact have the lowest benefit system in the country right now. So there is really nowhere to cut from, and our concern is that cuts will come from that ground.

Ms. Laurie Davis: We're seeing impacts already on the 2010 cuts and patients' ability to complete their rehab. We surveyed not just our own members but a number of other members. We had close to 200 respondents—and some of those were responding on behalf of large practices—who told us that they're having to discharge a much greater proportion of their clients before they've achieved what they consider to be their functional rehab goal. So we would be concerned that any erosion of benefits will make it harder for people.

Ms. Dipika Damerla: I think you may have noticed that in the budget that we just passed there was no mention of eroding benefits. I want to reassure you. That really wasn't the intent, and you've probably seen where we are going with trying to reduce insurance premiums. Cracking down on fraud has really been our prime focus. So I want to reassure you on that.

How much time do we have left?

The Chair (Mr. Grant Crack): Two minutes, 20 seconds.

Ms. Dipika Damerla: Did any of my colleagues have a question?

Okay, we'll pass, then. Thank you very much.

Mr. Nick Gurevich: Thank you.

The Chair (Mr. Grant Crack): Thank you very much for taking the time to come before us and providing your opinions and your insight. Appreciate it.

MR. BILL ANDRUS

The Chair (Mr. Grant Crack): Our next delegation is Mr. Bill Andrus. Welcome back again, sir. It's good to have you back, and we look forward to your presentation. You have five minutes, and then each party will have 10 minutes to ask you questions or make comments.

Mr. Bill Andrus: Good afternoon. Thank you for meeting with me. I tried it earlier, and it didn't work; we did it this time. That's good. That's progress.

There's a handout of my presentation. The time is limited, so I'm going to speak to the words that are in bold, but there are words there in italics. I leave it to your discretion. If you wish to read them, please do so. Very briefly, I'll go through my presentation.

My name is Bill Andrus. I have an honours degree in mathematics, in actuarial science, 1973—so I may be the oldest person in the room—from the University of Waterloo. I'm an associate of the Casualty Actuarial Society. I have over 35 years' experience in this insurance business, and for part of my career I did work at the Insurance Bureau of Canada.

I'm here to today to speak specifically to the issue of measuring the rate of return on equity for the Ontario auto insurance industry. I speak to you today, not as a consultant for anyone, but as a businessman/investor with specific experience in the insurance business, including Ontario auto.

1630

I'm motivated to do this because I have read press releases and seen advertised in various print media that Ontario auto is producing returns of 1.3% to 4%. This is simply wrong. The Ontario auto business is very strong and certainly has produced actual returns well in excess of 4% in past two years. If they were only doing 1%, there would be an investment problem; there's no question. I wish to speak to this point, focusing on two themes: (1) accuracy and (2) transparency.

Accuracy: This is achieved when the results are stated accurately in the same way as any other economic indicator is stated. It is important to state the source of the

data and the formula used to achieve the conclusion. Using this simple, basic approach, the numbers are what the numbers are. Two plus two equals four, no matter what the political ideology or vested interest.

Specifically for Ontario auto, this task is made relatively easy, because we have an excellent data source in what's called the GISA database; in my time, it used to be called the green book data. A problem arises when data becomes the subject of debate and conjecture. Let me stress, as I did at the beginning, that while everybody is entitled to their own opinion, they're not entitled to their own facts. Data in the insurance industry is no different: There's only one set of numbers, and they must be reported accurately and free of interference from any stakeholder or group.

Transparency: We also need greater transparency in the availability of data. Fortunately, improvements—I might say great improvements—have been made in the past number of years. GISA was founded to provide independent oversight of the auto insurance database and publications. GISA has made their insurance experience, which is excellent, readily available on the Internet. There is, however, greater need for transparency from the authors of the various presenters of the important metric of auto insurance, the metric being the rate of return.

Can you imagine this? The current situation is somewhat akin to a golf tournament where each golfer keeps his own score. You'd have chaos. Essentially that's what the rate of return is.

I invite questions on how a common method is used. I use it for my clients. The IBC has used it in past presentations to various governments. There's no secret. It's not hard. While it does take a person of specific expertise to calculate it, the results are what the results are.

Let me close by saying that just recently, a large Ontario auto insurance company, Dominion of Canada, a fine company that's been around for many, many years, was purchased by an American insurer, Travelers. I assure you that Travelers, having paid a fair price, knows the formula for return on equity, and Travelers isn't here for 1% to 4%. In summary, I conclude by saying that auto insurance is in great financial health, performing very well for its investors.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Andrus. We will start with the third party. Mr. Singh.

Mr. Bill Andrus: Excuse me. I do have, as I mentioned earlier—it might help to go through it very quickly—the profitability of the industry since 2000. It's a simple little table, very simple, very straightforward. Could I go through it?

Mr. Jagmeet Singh: Would you be able to table—do you have copies of that?

Mr. Bill Andrus: Yes, many copies.

Mr. Jagmeet Singh: We could have the Clerk distribute that.

Mr. Bill Andrus: I'll go through this table very quickly. This is the GISA data—

The Chair (Mr. Grant Crack): Sorry, sir. It's the NDP's time at this point. Your five minutes have expired.

Perhaps some of the members could ask you some questions, and that would be an appropriate forum.

Mr. Bill Andrus: So you don't want to talk about this, then?

Mr. Jagmeet Singh: What I'll do is give you a chance to talk about it in my time. I have couple of other quick questions, but then I'd love to hear you explain this, and we'll go through this in my time.

Mr. Bill Andrus: You want me to go now, or do you want to go through questions?

Mr. Jagmeet Singh: You actually already started, so let's go through this, if you could.

Mr. Bill Andrus: This is GISA data, the famous GISA data. It's excellent data. It's available on the public website to anybody who wishes to look at it. Very simply, this is the underwriting data. It does not include investment incomes: pure premiums, claims, expenses—premiums and claims, I'm sorry.

Those are the vehicles earned, so basically it's the number of insured cars. So approximately, in 2012, 6.7 million cars were insured in Ontario. Private passenger premiums earned: \$10 billion. Number of claims: about 598,000. The dollars of claims: \$6.5 billion. The average premium, what people pay per vehicle: about \$1,500. But you can see the trend over time. The average claim size: You notice how it has gone down since the new legislation.

A very, very interesting statistic, one that does not get enough attention, is the decline in claims frequency. The consumers, I submit, are doing their part by putting in fewer claims. I suspect part of that—a large part if it—is that they're frightened to put in a claim in case their rates go through the roof, so they just don't put in the claim, but that's a rather remarkable decrease.

The average claim severity is going up. There's the claims ratio. Basically, of \$100 in premium, what percentage goes out in claims? In 2012, it was at 62%. There has been only one other year since 2000 at 62%. Every other year has been higher. If, at 62%, you're only getting 1% to 4%, that's one sorry tale for the industry. It just doesn't make any sense, because it's one of the best years ever.

Mr. Jagmeet Singh: Perfect. Thank you so much, Mr. Andrus.

Mr. Andrus, why are your numbers and your calculations so different from what the IBC has been putting out, which are 1% to 4%? Why are they so different?

Mr. Bill Andrus: I've read the IBC presentation. I've read the work behind it. I know their various expertise. I'm just puzzled. I think it was KPMG that used—I know the people at KPMG. I hire them. My colleagues hire them. We're hiring them right now for tax advice. I don't know the answer to that. I read it; I scratch my head. I read it again; I scratch my head. My head starts to hurt. That's the best answer I can give you.

Mr. Jagmeet Singh: So you stand by your numbers that an industry of this size and of this nature wouldn't be just making 1% to 4%. They're making some significant returns.

Mr. Bill Andrus: We're not a charity. I'm an investor in business. I've never been accused of being charitable. At 1%, that's rather disgraceful.

Mr. Jagmeet Singh: In terms of the discussions at insurance companies around the board of directors, if they were to present to their stakeholders that they're only making a 1% to 3% return, what would the response be, do you think?

Mr. Bill Andrus: I'd be looking for a new job. It's not hard.

Mr. Jagmeet Singh: Can you talk to me a little bit about some of the details? If we get into it, the methodology you use in your report—I believe it's called the Cheng methodology—is that something that's widely accepted and widely used?

Mr. Bill Andrus: I'll give you my methodology. One more handout, if you bear with me.

Mr. Jagmeet Singh: Sure. Yes.

The Chair (Mr. Grant Crack): Mr. Singh, is it okay?

Mr. Jagmeet Singh: Yes, yes. Certainly. Please hand it out. Yes. Not a problem.

Mr. Bill Andrus: What I tried to do here—first of all, rate of return on equity. This is not rocket science. I don't think it's difficult at all. What I tried to portray here is a model, and this model says—let's each one of us pretend it's January 1 of, say, 2012, and we invest \$100 in the Ontario auto insurance business—100 bucks. Now we go away for a year, and we come back on December 31 at midnight. Let's see if we made money. Let's keep it that simple.

1640

We put in \$100. We've had great assistance here because FSCO has just come out with new parameters of how to measure this, and they're very, very helpful. FSCO has really been cranking stuff out lately and it's very good. There's one factor called premium leverage. We invest \$100. That allows us to accept premiums from other people of \$170. It's a leverage factor of 1.7. So we can take premiums of 170 bucks.

Now, you can see that on the GISA data the 2012 loss ratio was 62%; 62% of 170 bucks goes in claims. On the FSCO technical bulletin—and it's quite a generous expense ratio, I might add—25% of 170 bucks goes to pay the bills for running the business: the overhead, the salaries etc. That adds up to 87.1% of \$170. Hey, we've got underwriting profit here, underwriting income, of 12.9% of the 170 bucks. This isn't hard. And 12.9% of \$170 is 22 bucks. We only invested \$100, so coming out of the chute we're at 22% pre-tax.

Now, then, there are the investments. The beauty of the insurance business, the magic of this business, why I love it: We don't invest in bricks and mortar. Look at BlackBerry. They had to go out and invest in research and development. We just stick our 100 bucks from our personal bank account into a different bank account, but we're still getting interest. I'm using the interest rate of 4%, so on our 100 bucks the investment income in equity is four bucks.

Now, another beauty of the insurance business—and Warren Buffett has made this famous—is the float. You

get people's premiums up front, but the beauty is that you don't have to pay claims till later. So while you've got that money, you're investing it, and the investment income is all yours. This is a great business.

The investment leverage, the float leverage I'm using is \$1.88. There's a bit of room here. This is subjective. I've checked with professional colleagues of mine. It's about \$1.50 to two bucks. I put in \$1.88. Put in whatever factor you want. That generates eight bucks. So on the investment income, I got another 12 bucks, plus \$22 is \$34.

Now, FSCO gave us a tax rate. I was surprised by the tax rate. I'm not a tax expert, but they're allowing 26%. I thought that was pretty low but I don't know. I'd go ask KPMG, "What's the tax rate?" But I'm using FSCO because it's there. And 26% is nine bucks. So \$34 minus nine bucks in tax is 25 bucks. Our beloved \$100 we stuck in here a year ago has made \$25 after tax. This ain't bad. That's my point.

Mr. Jagmeet Singh: Thank you so much. How much time do I have left?

The Chair (Mr. Grant Crack): One thirty-eight.

Mr. Jagmeet Singh: Okay. So two things: One is, do you support the idea of making the profitability of the industry even more transparent and more clear so that people have a real, true notion of what the industry is making in terms of profit?

Mr. Bill Andrus: I think it could be. GISA has all the parameters there to do it and for the industry—also, GISA came out with one other very important figure of 11%. They're saying that is what you should make in the auto insurance business over time, is 11%. Hey, I like the 34%, frankly. But they're saying 11%. They're saying what it is. So should it be more transparent? I think GISA could do that on their website. It could be quite easy, and to answer your question, yes.

Mr. Jagmeet Singh: Can I squeeze in a last question?

Mr. Bill Andrus: Yes.

Mr. Jagmeet Singh: In 2010, after the SABS re-definition or the SABS amendments, the amendments to the statutory accident benefits, you've seen profits go up from that. Is that something that's going to change in any way or is that something that seems to be a consistent trend?

Mr. Bill Andrus: Well, the profits will be what the premiums that are charged—yes, the profits have really taken off since there was that legislative change, to go from a loss ratio of 88% to 65% was a profound—I think the rates will stabilize. Now, you've got this 15% thing kicking around, but I'm not really here to deal with that.

Mr. Jagmeet Singh: Would that be one of the most historically significant increases in profits you've seen in the industry?

Mr. Bill Andrus: Well, we can go down and eyeball it; you've got it right in front of you. It ranks right up there.

Mr. Jagmeet Singh: Okay.

The Chair (Mr. Grant Crack): Thank you very much. The government side.

Ms. Dipika Damerla: Thank you, Mr. Andrus, for coming. I understand you flew in from Winnipeg last week.

Mr. Bill Andrus: No, Calgary.

Ms. Dipika Damerla: Calgary; I'm sorry.

Mr. Bill Andrus: Actually it's a little town 70 miles south of Calgary called Stavely. The population of this building is bigger than that town.

Ms. Dipika Damerla: I just wanted to apologize that we—

Mr. Bill Andrus: That was unpleasant, but let's leave it at that.

Ms. Dipika Damerla: I really, really appreciate your persistence in coming back. Thank you so much.

Thank you very much for a very lucid explanation and your thoughts. You've been able to take a very complex subject and simplify it for me. From what you're telling me, in 2012 insurance companies made \$4 billion in profits—you're saying that premiums earned were \$10 billion and payouts were about \$6.4 billion, so that's gross profit, right?

Mr. Bill Andrus: There are expenses, overhead expenses.

Ms. Dipika Damerla: So that's why I'm saying it's just underwriting income.

Mr. Bill Andrus: Use 12% of the \$10 billion. That would be ballpark—10% to 12% profit; underwriting profit plus investment income.

Ms. Dipika Damerla: Okay. So here's my question: If insurance companies are making this profit and if their profits have increased, given that it's a free market, why have these savings not been passed on to the customer? It's something that boggles me. What's your take on that?

Mr. Bill Andrus: Why? I would say that a 15% rate increase has got everybody a bit spooked, but if the market were on its own devices, I think you would have seen decreases. I understand that a large company has decreased its rates just recently, and more will follow. Like, this is crazy: 3% to 4%.

Ms. Dipika Damerla: Sorry. If I understood you correctly, what you're saying is that if we left things as is, insurance premiums would come down automatically?

Mr. Bill Andrus: Yes. There's a lot of money that's yearning for a return, and if they were out there earning 25%, that's going to attract a lot of dough—lower prices—because lots of people are happy at 8% or 9%. I'm not, but others are.

Ms. Dipika Damerla: Okay. Based on your experience, what do you think is the number one contributor to costs in the auto insurance system?

Mr. Bill Andrus: Claims. I wish I could get rid of claims; then I'd buy this place.

Ms. Dipika Damerla: How much do you think fraud contributes to the cost of auto insurance?

Mr. Bill Andrus: You know, there's fraud everywhere. Fraud affects Costco. Fraud is fraud. You should minimize it, but I can't answer your question. I don't get overly exercised about it. If I'm the insurance company and I'm signing the cheques, if I think it's fraudulent,

well, I won't pay the bill. I don't know why that's complicated.

Ms. Dipika Damerla: Based on your experience, what do you think would be the best form of accountability in the auto insurance system to guarantee that savings are passed on?

Mr. Bill Andrus: I'd say the free market. Just make sure that people can—if you've got an industry out there, 25% after tax, that's going to attract a lot of money. Many, many people would be happier with a far lesser rate of return, so that will lower prices; it has to.

Ms. Dipika Damerla: It hasn't happened in two years, is what my clients are saying. I'm not saying it's not happening, so I'm just curious. That's what my constituents are saying.

Mr. Bill Andrus: The average premium has gone from \$1,500 to \$1,544, but the rate of increase has certainly slowed down. I think there's a certain jumpiness out there, but left to its own devices—you've asked me, and hey, I'm a capitalist; make no mistake about it—I think the market would stabilize. But I'd stop monkeying around with it. That's all.

Ms. Dipika Damerla: Thank you.

The Chair (Mr. Grant Crack): Ms. Hunter.

Ms. Mitzie Hunter: Thank you for appearing and for bringing this additional—

Mr. Bill Andrus: Well, I didn't come in from Stavelly. I do live in Brampton. I pay Ontario taxes.

1650

Ms. Mitzie Hunter: Thank you for bringing this additional data before us.

In terms of the years that you've presented, so between 2000 and 2012, the number of vehicles has grown. The premiums earned have also grown, as you've pointed out. But the number of claims has gone down. It seems like whatever is happening is addressing some of the behaviour—

Mr. Bill Andrus: You're quite correct. The number of claims going down: First of all, people buying higher deductibles, all kinds of—and they're submitting fewer claims because they're scared skinny of getting whacked with a premium increase. But also, and this could be easily checked, to go and check with, I don't know, traffic enforcement or whatever; maybe there are fewer accidents out there than there were in 2000. I don't know the answer, but it wouldn't be hard to find out.

Ms. Mitzie Hunter: That's part of the system, right? We have to try to work on the whole system.

Getting back to the question on fraud, you said that fraud will occur. Do you think it's a significant part of the system as it is today?

Mr. Bill Andrus: It gets a lot of attention. I've been involved. Fraud is always a cost in any business. Costco: You've got to check out because of fraud. But there are ways to control it. Don't pay a fraudulent claim. I've been faced with a fraudulent claim; I said, "I'm not paying it." It's not hard.

Ms. Mitzie Hunter: Are there any ideas that you would have for us to improve the system?

Mr. Bill Andrus: Let me run the whole thing at 25%; it would be delightful. Seriously, yes, there are. I think there are systemic things that can be done, but that's above and beyond my purpose to be here and not something I can explain in 30 seconds. But there are systemic issues that I think would be spectacular improvements. It wouldn't cost—

Ms. Mitzie Hunter: Can you give us one or two examples?

Mr. Bill Andrus: I'd rather not, at this stage. They're systemic to the delivery of the product. There are many different approaches. There's the whole cost base, and access to the product. If I have a second—how's my time doing here?

Ms. Mitzie Hunter: How are we for time, Mr. Chair?

The Chair (Mr. Grant Crack): We have two minutes and 41 seconds.

Mr. Bill Andrus: Maybe the other people have questions, I don't know.

Ms. Mitzie Hunter: We have two minutes with you, so you can continue for two minutes.

Mr. Bill Andrus: As strange as this may sound, access to a product—see, I'm an insurance wonk; I make no bones about it. In my family, with my friends, I've always issued this challenge. If they're complaining about their insurance, and someone in my family always is, tell me about it and I can save them money. My personal record is saving 5,000 bucks. But you have to shop the product.

FSCO, again, have done a tremendous thing. Do you realize that on their website there are, I think, four sample scenarios where you can look up the highest-rated company to the cheapest-rated company. Even if you took advantage of that, looked at the cheaper companies, went to your broker and said, "I want to pull from that company," this isn't hard.

But the broker might say, "I don't represent that company." That's a difficult thing, because now you have to fire your broker. A lot of people don't want to do that. There are solutions to that.

Ms. Mitzie Hunter: Okay. So consumer awareness and some market courses—

Mr. Bill Andrus: Yes, but FSCO has done a good job here. Putting out that price list is remarkable, but very few people know about it. That surprises me.

Ms. Mitzie Hunter: Mr. Andrus, thank you so much for coming in today.

Mr. Bill Andrus: You're welcome.

The Chair (Mr. Grant Crack): Thank you, and we'll go to the official opposition. Mr. Yurek.

Mr. Jeff Yurek: Thank you, Chair. Thanks for coming back, Mr. Andrus.

Mr. Bill Andrus: Not a problem.

Mr. Jeff Yurek: Do you have a report printed out, written out, that you can submit to committee on how you achieved these numbers and your methodology and—

Mr. Bill Andrus: I have that model. To answer your question directly, no.

Mr. Jeff Yurek: Okay. We've talked at the committee about various data sets and how they've indicated

profitability of insurers—GISA versus OSFI stats, I'm talking about. Which one do you think is best at assessing profitability?

Mr. Bill Andrus: I think they're both the same. But one tests the rates, the other tests the financial outcome of that particular company. But the OSFI data is always problematic because it is all lines of business and it's difficult to split it out. They've made some attempts to do it, but to do it provincially, it's tougher and tougher. It is tough, whereas the GISA data has a singular purpose: to track the premium claims performance of Ontario auto insurance in great detail. If companies do not report their data accurately, they're fined money—serious fines. This is serious stuff. This GISA database is good. The actuary for GISA is the Ernst accounting firm. They've got a team of good actuaries. Hey, this is good stuff, and it is reconciled back to the OSFI data. You have to reconcile it back, or you get whacked with a fine.

Mr. Jeff Yurek: It goes to my next question. In your analysis that you made, or report that we don't have, did you make allowances for the fact that GISA data are estimates? It gets changed as the year-end continues on.

The Scarlett v. Belair case—

Mr. Bill Andrus: I'm sorry?

Mr. Jeff Yurek: The Scarlett v. Belair case. Have you heard of that?

Mr. Bill Andrus: Help me out.

Mr. Jeff Yurek: That was an arbitration case which changed over—the insurance company had to pay out more money for a certain case, which affects all the cases along the line. In which case it would change the GISA data. Did you make allowances for changes to data due to claims?

Mr. Bill Andrus: I'll answer the question. Hang on.

As the claim changes, it changes constantly over time. You can have a judge make a decision, or you could have a claims guy change the reserve. I believe the reportings to GISA are monthly. Of course the change is made, to answer your question.

Mr. Jeff Yurek: Did you make allowances in the calculations—

Mr. Bill Andrus: No, I'm sorry. I don't make the allowance; GISA does.

Mr. Jeff Yurek: But you made the report and made the calculation. Did you make allowances in your report?

Mr. Bill Andrus: It's in the data. It's in the data. You're looking at the data. This case you mentioned is in these numbers.

Mr. Jeff Yurek: All I have is two pieces of paper. I don't have a report, which makes it really hard for this committee to have a discussion about this without an understanding, when all the other actuaries who have testified at this committee have brought reports that we could actually read and study and have good coherence, so—

Mr. Bill Andrus: I'm here as a businessman more than an actuary. I am an actuary, but I know how to calculate a rate of return, and it's ridiculous to think that it's 3%. It's that simple.

Mr. Jeff Yurek: Are you a practising actuary, or are you just now in a business?

Mr. Bill Andrus: I've practised most of my life. Somebody said that that was my problem: I only practised. I invest in insurance companies. I sign the front of a cheque.

Mr. Jeff Yurek: Okay. The federal government uses OSFI data to evaluate the financial stability of the company. Are they using the wrong data? Should they be—

Mr. Bill Andrus: No, they're using—as you'll see in my resumé, I authored a book, sold all over the world, measuring the financial solvency of companies. I had 17 years—sold it all over the world, on every insurance company in Canada. I know how to measure the solvency. OSFI does a very good job. That is on the total book of business. It has got nothing to do with Ontario auto. It's the total book of business, and there are many other parameters that come into it. It's excellent.

The capital test is publicly available on the OSFI website quarterly. It's excellent.

Mr. Jeff Yurek: The ROE issued by FSCO, the benchmark, is that guaranteeing the industry a profit of 12%?

Mr. Bill Andrus: I wish. No. Most certainly not. If it was a guarantee, even I'd be happy with it.

Mr. Jeff Yurek: Can you explain how the benchmark ROE works in the rate filing process?

Mr. Bill Andrus: Yes. It's the 11%—I'm sorry—

Mr. Jeff Yurek: It's 12% right now, but I think they're aiming to get it down to 11%.

Mr. Bill Andrus: It has gone to 11%, yes. I haven't done a rate filing for many, many years. I used to do all kinds of—yes, what's the problem?

The Chair (Mr. Grant Crack): Sorry, sir, could you just pull back away from the microphone? Because there's static. We can hear you well if you're about four or five inches away from the microphone.

Mr. Bill Andrus: All right.

The Chair (Mr. Grant Crack): We appreciate that. Thank you.

Mr. Bill Andrus: All right. Better? Apologies. The question was?

Mr. Jeff Yurek: Talk to me about the ROE is done in the rate filing process.

Mr. Bill Andrus: I haven't done a rate filing in many, many years, but back when I did it to advise management—there was no FSCO, there was rate regulation at the time, but to my bosses I would put in the rates to get our desired underwriting ratio, which is this 62% number we're looking at here. That is the thing that drives everything. I would price the product—I knew what the expense ratio was—to a desired loss ratio. With the desired loss ratio we know our investment leverage. So back in those days we were fairly happy if we came in with a loss ratio of 70% or 71%, which would give us a rate of return—hey, we had more generous owners back then—approximately a 10% or 11% return. But that's when investment yields were banging around 6% or 6.5%. You could get guaranteed money and returns at 6%

or 6.5%. In the insurance business they were happy at about 11% or 12%.

Mr. Jeff Yurek: A question for you: The logic behind a return-of-equity calculation, when applied generally to any industry, is a performance metric of profitability.

Mr. Bill Andrus: You've got a hell of a list there, man. Go ahead.

Mr. Jeff Yurek: I'm dedicated, man.

Mr. Bill Andrus: I know you are.

Mr. Jeff Yurek: Generally, in high-risk industries ROEs tend to be higher than lower-risk industries. Investors are usually compensated for risk—

Mr. Bill Andrus: This is not a high-risk industry—

Mr. Jeff Yurek: You don't think insurance is high-risk?

Mr. Bill Andrus: No, it's the law of large numbers. Look at those numbers; they're almost like a frozen rope. I'll tell you what's high-risk, is BlackBerry. That's tough. Think about it, guys; come on. The people pay you the money upfront. They've got to buy the product; you don't even have to sell it to them. The government says, "Hey, you've got to buy this product." This is magic. I don't understand why this is high-risk. Hey, I've put a lot

of my family's money in it and we're not starving, I'll tell you that.

Mr. Jeff Yurek: So there's no risk in insurance?

Mr. Bill Andrus: Well, there's risk in any business if it's badly managed. There's management risk. But the inherent—it's the law of large numbers. It's one of the most secure laws known to mankind. Do the gambling houses in Vegas lose money? They use the law of large numbers. Now I'm almost sounding like an actuary. Go ahead.

Mr. Jeff Yurek: I'll ask you one more. I asked IBC this earlier, and they were more than willing, but would you be willing to sit down with IBC's actuaries and figure out where the 10% is missing between your figures and their figures?

Mr. Bill Andrus: Yes, sure, of course. I'd be delighted to. I'll stop scratching my head. That would be pleasant, frankly.

Mr. Jeff Yurek: Great. Thank you very much.

The Chair (Mr. Grant Crack): Well, thank you very much, Mr. Andrus. I appreciate you returning. Very insightful. I take it that's it? So this meeting is adjourned.

The committee adjourned at 1703.

CONTENTS

Monday 30 September 2013

Automobile insurance review	G-245
Ontario Trial Lawyers Association	G-245
Mr. Charles Gluckstein	
Insurance Bureau of Canada	G-250
Ms. Barb Taylor	
Ms. Barb Sulzenko-Laurie	
Insurance Brokers Association of Ontario	G-256
Mr. Rick Orr	
Mr. Arthur Lofsky	
Ontario Rehab Alliance.....	G-262
Mr. Nick Gurevich	
Ms. Laurie Davis	
Mr. Bill Andrus	G-267

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Official Report of Debates (Hansard)

Wednesday 9 October 2013

Journal des débats (Hansard)

Mercredi 9 octobre 2013

Standing Committee on General Government

Wireless Services
Agreements Act, 2013

Comité permanent des affaires gouvernementales

Loi de 2013 sur les conventions
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENT

Wednesday 9 October 2013

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Mercredi 9 octobre 2013

The committee met at 1615 in committee room 2.

SUBCOMMITTEE REPORT

The Chair (Mr. Grant Crack): I'd like to call the meeting to order. I'd like to welcome all members of the committee, support staff and presenters here this afternoon.

Again, I apologize for the delay. We cannot start a committee meeting until such time as routine proceedings is finished within the House, and today it did take a little bit longer than normal.

Having said that, we'll get right down to business. I believe we have a report from the subcommittee from the other day, and I would ask that that be read into the record. Mr. Fraser? Oh, sorry. Mr. McDonell?

Mr. Jim McDonell: Yes, we have a report from the subcommittee, dated Monday, October 7, 2013.

Your subcommittee on committee business met on Monday, October 7, 2013, to consider the method of proceeding on Bill 60, An Act to strengthen consumer protection with respect to consumer agreements relating to wireless services accessed from a cellular phone, smart phone or any other similar mobile device and, subject to the bill's referral to the committee, recommends the following:

(1) That the committee hold public hearings on Bill 60 in Toronto, at Queen's Park, on Wednesday, October 9, and Monday, October 21, 2013, during its regular meeting times, as per the order of the House dated Thursday, October 3, 2013.

(2) That the Clerk of the Committee, with the authorization of the Chair, post information regarding the committee's business with respect to Bill 60 once in all English dailies, as well as in *Le Droit* and *L'Express* newspapers, as soon as possible.

(3) That the Clerk of the Committee, with the authorization of the Chair, post information regarding the committee's business with respect to Bill 60 in English and French on the Ontario Parliamentary Channel, on the Legislative Assembly website, and with the CNW News-Wire service.

(4) That the Minister of Consumer Services be invited to appear before the committee on Wednesday, October 9, 2013, as the first witness.

(5) That the Minister of Consumer Services be offered 15 minutes for her presentation, followed by up to 15

minutes for questions by committee members, five minutes per caucus.

(6) That interested people who wish to be considered to make an oral presentation on Bill 60 should contact the Clerk of the Committee by 5 p.m. on Wednesday, October 16, 2013.

(7) That the Clerk of the Committee, in consultation with the Chair, be authorized to schedule witness presentations on Bill 60 for Wednesday, October 9, as the requests are received, on a first-come, first-served basis.

(8) That, following the deadline for receipt of requests to appear on Bill 60, the Clerk of the Committee provide the subcommittee members, by email, with a list of all the potential witnesses who have requested to appear before the committee.

(9) That, if required for the Monday, October 21, public hearings, each of the subcommittee members provide the Clerk of the Committee with a prioritized list of the witnesses they would like to hear from by 12 noon on Thursday, October 17, 2013. The members will rank all potential witnesses on the list distributed by the committee Clerk, starting with "1" for their first choice, and increasing by increments of one for all subsequent choices. The Clerk will add the ranking scores for each witness and schedule the witnesses with the lowest cumulative scores.

(10) That up to seven presentations be scheduled on Monday, October 21, 2013.

(11) That groups and individuals be offered six minutes for their presentations, followed by up to 24 minutes for questions by committee members, eight minutes per caucus.

(12) That the deadline for receipt of written submissions on Bill 60 be 5 p.m. on Friday, October 18, 2013.

(13) That the research officer provide the committee with a summary of written submissions by 4 p.m. on Monday, October 21, 2013.

(14) That amendments to the bill be filed with the Clerk of the Committee by 12 noon on Tuesday, October 22, 2013, as per the order of the House dated Thursday, October 3, 2013.

(15) That the committee meet on Wednesday, October 23, 2013, during its regular meeting time for clause-by-clause consideration of the bill, as per the order of the House dated Thursday, October 3, 2013.

1620

(16) That the Clerk of the Committee, in consultation with the Chair, be authorized to commence making any

preliminary arrangements necessary to facilitate the committee's proceedings prior to the adoption of this report.

The Chair (Mr. Grant Crack): Thank you, Mr. McDonell. Any further discussion on the report of the subcommittee? Shall the subcommittee report be adopted?

Mr. Jim McDonell: I just have one thing.

The Chair (Mr. Grant Crack): Go ahead.

Mr. Jim McDonell: If you're rating, it should ensure that everybody rates all of them, or it kind of messes up your system. Rate from "1" to how many there are. If you leave some blank, it kind of mixes up your numbering system, I would think. As long as everybody is clear on that.

The Chair (Mr. Grant Crack): Thank you. Shall the report of the subcommittee be adopted? Those in favour? There are none opposed. Carried.

WIRELESS SERVICES AGREEMENTS ACT, 2013

LOI DE 2013 SUR LES CONVENTIONS DE SERVICES SANS FIL

Consideration of the following bill:

Bill 60, An Act to strengthen consumer protection with respect to consumer agreements relating to wireless services accessed from a cellular phone, smart phone or any other similar mobile device / Projet de loi 60, Loi visant à mieux protéger les consommateurs en ce qui concerne les conventions de consommation portant sur les services sans fil accessibles au moyen d'un téléphone cellulaire, d'un téléphone intelligent ou de tout autre appareil mobile semblable.

MINISTRY OF CONSUMER SERVICES

The Chair (Mr. Grant Crack): It gives me great pleasure to welcome, from the Ministry of Consumer Services, the Deputy Minister, Mr. Gherson, and I believe a number of others. Is Mr. Gherson here? For the record, please state your name and those who accompany you.

Mr. Giles Gherson: Thank you, Chair. My name is Giles Gherson. I'm Deputy Minister of Consumer Services. On my left are Frank Denton, assistant deputy minister of policy at consumer protection services, and Marilyn Marshall, on my right, who is senior counsel.

The Chair (Mr. Grant Crack): You'll have 15 minutes, if need be. I'll let you know when you have a minute left.

Mr. Giles Gherson: I appreciate that; thank you. Honourable Chair and committee members, I'm pleased to be here this afternoon on behalf of the Honourable Tracy MacCharles, Minister of Consumer Services, to present the government's proposed Wireless Services Agreements Act, 2013.

Earlier this year, on April 29, Minister MacCharles introduced the proposed legislation to protect and

strengthen the rights of Ontario consumers in one very significant sector of the marketplace: cellphone and wireless services agreements.

The proposed Wireless Services Agreements Act, which passed second reading debate yesterday, would, if passed, provide significantly better protections to more than 80% of Ontario's consumers who have contracts for cellphones, smart phones and similar mobile devices. It would also bring greater fairness and transparency to wireless services agreements entered into by the people of Ontario.

Let me just outline the three main features of the legislation:

(1) Bill 60 empowers consumers to find the right contract for their needs and budgets.

(2) Bill 60 helps consumers easily end contracts that no longer suit them and at minimal cost.

(3) Bill 60 enables consumers to avoid surprises from any unexpected changes to their contract over its life.

I'll expand briefly on each of these important features. Empower consumers to get the right wireless services contract by making it easier to understand what they are contracting for out of a myriad of competing offerings in the marketplace: The bill makes it clear that consumers have rights to transparent, plain-language contracts, disclosing key contract terms, spelling out what services come with the basic fee and which services would result in added costs, how services can be accessed and what rates and restrictions apply. As an example, the provider would need to disclose if a long-distance plan is available within Ontario only.

The contract would also have to be provided in a form that a consumer can keep, such as an electronic document that can be printed. Contracts would also need to include the retail value of a handset and the real cost to the consumer of phones provided in "free" contracts at a discounted price.

If the supplier is offering supplemental warranty coverage on the handset or device at an additional charge, the consumer would need to be given information on the manufacturer's warranty that would come with the device anyway.

Information on how cancellation fees are calculated would have to be included in the agreement that a consumer receives and signs. Companies would need to provide clear information on how roaming costs are calculated, when they will be incurred and whether a cellphone is locked, for how long and the cost, if any, to unlock it.

Perhaps the most important element that would empower consumers is the requirement that when a provider advertises prices for wireless plans, they must show the all-in price of the entire multi-year contract, not just the monthly charge. No extra add-on charges would be allowed based on advertised prices.

This transparency would let consumers more easily compare prices as they shop for the cellphone plan that suits them best. The purpose is to empower consumers to get the right wireless contract for their needs and budget.

The second key feature, helping consumers terminate contracts more easily and at low cost: The proposed legislation would, if passed, give consumers the right to cancel a wireless services agreement at any time by giving notice to their service provider. The cost to cancel would depend on the type of agreement. However, Bill 60 sets strict limits on cancellation penalties. For example, to cancel a fixed-term contract that did not include a handset, the cost would be 10% of the price of any outstanding services, up to a \$50 maximum. If a handset was provided, the consumer would be responsible for any unpaid amount on the value of the discount they received when purchasing the phone.

As well, if a consumer does not obtain a copy of their contract when it is signed, or if the consumer does not obtain all the disclosures that legislation requires, including the key terms of the contract, a consumer would have the right to cancel the agreement within one year of signing it, and the company would have to refund all payments made under the contract to the consumer.

A third feature, preventing surprise costs or service changes within the life of the agreement: Not only must a contract include all the key terms, but Bill 60 prohibits unilateral contract changes. Explicit consent from consumers must be obtained before amending, extending or renewing a fixed-term contract. This means consumers would have to agree to any change to the agreement before it is made, and they must get an up-to-date version of their agreement if it is amended or renewed. Automatic renewal of a fixed-term contract without consumer consent would no longer be allowed.

Bill 60 would allow expiring fixed-term contracts that haven't been renewed to automatically become month-to-month contracts on the same terms as their expired fixed-term contracts, as long as this is provided for in the contract.

As well, under the proposed legislation, customers could not be charged for services they could not access while their handset was being repaired when under warranty. For example, if a customer received a loaner phone while their phone was being repaired under warranty, the loaner phone would need to be provided free of charge. This would not apply to phones that are not covered by warranty. Nor would customers be able to be charged for surprise costs incurred for the use of a phone after it has been reported lost or stolen, such as long-distance or roaming charges.

We believe that all of these terms and features would offer strong protections for Ontario consumers, and they are backed by strong enforcement measures when a service provider does not follow the rules.

Bill 60 gives a consumer the right to sue the provider for three times the amount that the consumer is owed, if the consumer is owed a refund and the company refuses to pay.

The bottom line is that Bill 60, if passed, would help ensure that when Ontario consumers enter into a cellphone and wireless service contract, they are fully informed and have made the best choice for themselves.

But it is important to note that this bill has been developed over the course of several years and has benefited from several rounds of consultation with stakeholders, including industry representatives and consumers.

In fact, the bill's content is based on last year's Bill 82, which, after many discussions with stakeholders, was introduced in May 2012. It died on the order paper when the Legislature was prorogued last year.

Earlier this year, we took the opportunity to listen to and meet again with industry and consumers. When the legislation was reintroduced as Bill 60, we incorporated several revisions and improvements to last year's Bill 82. We also again reviewed key elements of very similar legislation in other provinces, such as Quebec, Manitoba, Newfoundland and now Nova Scotia.

Additionally, we have incorporated some changes to align with what was then the CRTC's draft code, bearing in mind that the final version of the national code was published in June, following the introduction of this legislation. Some of those changes would prevent consumers, for example, from being charged for calls made once a phone is reported lost or stolen. It would allow automatic monthly extensions at the front end of a fixed-term contract to avoid consumers losing their cellphone number if they haven't managed to sign up for a new contract—so during that period of delay. Also, it would provide authority for regulations to require service providers to give customers a personalized contract summary for each contract.

Now that the CRTC has introduced its final code for service providers, which comes into effect December 2, we have of course reviewed it at length. We're pleased to see that it contains many useful consumer protections.

It does raise, of course, an obvious question, which is, why would we still bring this proposed legislation forward to protect Ontario consumers when there will soon be a national code? The answer is that Bill 60 provides some very important protections beyond what is in the national code.

1630

First, though, I should be clear: The federal government does have the jurisdictional responsibility in the field of telecommunications, but equally, the provinces have responsibility over contracts and ensuring that cellphones and wireless contracts are fair and transparent.

We designed our bill, as have other provinces, to fit within provincial jurisdiction. We do not include proposals that by their very nature are directly related to the federal government jurisdiction.

It is also worth noting that the CRTC itself has explicitly said that its national code can coexist with provincial legislation, including very similar legislation to this bill already in force in Quebec and three other provinces.

Bill 60 better protects consumers in four key ways. First, if consumers want to be able to compare cellphone deals among providers, then only Bill 60 mandates all-inclusive price advertising that shows the total cost of the contract over its duration.

Second, if consumers want control over their contracts and to not be surprised by new or added charges, then

only Bill 60 requires providers to get customer consent before they amend any term of a fixed-term contract. Unilateral contract amendments to fixed-term contracts would be prohibited.

Third, if a consumer cancels a contract and the cell-phone provider doesn't refund the money owed to a consumer, such as deposit money, only Bill 60 would give the consumer the right to recover three times that amount if they have to sue for a refund.

Fourth, because we want consumers in Ontario to benefit from stronger consumer protections, only Bill 60 would provide authority to use strong enforcement measures—to address ongoing systemic problems via compliance orders, for example—when a provider fails to comply with the law.

The national code would deal with these things by mediating complaints on a case-by-case basis.

Finally, we're pleased to see that the providers are moving ahead, complying with laws similar to Bill 60 in other provinces, such as Quebec, Manitoba, Newfoundland and Nova Scotia.

We believe all of these measures strengthen consumer protection and ensure a fair, safe and informed marketplace, where Ontario families and individuals can make informed choices, spend wisely and protect their hard-earned money.

The Chair (Mr. Grant Crack): Thank you very much, Deputy Minister. There are four-and-a-half minutes remaining—good job.

With the committee's approval, we'll start with the opposition.

Mr. Jim McDonell: Thank you for appearing today.

There are many issues that are covered under both codes. Obviously, this bill was written before the wireless code was issued. Is it not time to look at firming it up so that we have one standard? I'm sure that if you have two different rules under the one code versus the other, there's a lot of confusion for the consumer. Where do you see that going?

Mr. Giles Gherson: I think it's fair to say that the code was developed, in large measure, after last year's Bill 82, and it contains many of the provisions that we put forward in our legislation. Clearly, there are some great similarities in terms of the protections that are provided.

You mentioned that there are probably some elements of the code, in the final form, that are not in our legislation, and that's something I'm assuming the committee can look at. But it's also fair to say, as I mentioned, that we have, in the bill, some significant enforcements and provisions that are not in the code. We believe that Bill 60 does, in fact, provide stronger protection to Ontario consumers than the code provides.

I also mentioned that the CRTC itself has explicitly said that it doesn't foresee any problem with the coexistence of a national code and provincial legislation. It's offering consumers a choice of redress.

Mr. Jim McDonell: What I'm wondering is, where you have two different, specific requirements that are in

conflict with each other, which one takes priority? Is that a matter for the courts in each case? I'm just wondering, when we're going through this, should we not try to bring them to one level, whatever it is, so that there's some clarity? Moving toward a national code would likely make the most sense in most cases.

Mr. Giles Gherson: Certainly, where there is a conflict—and I'm not sure there are that many cases where there are—the national code prevails. But, as I say, there are elements of Bill 60 that are not to be found in the code.

Mr. Jim McDonell: I realize that, but I'm just saying, for the cases where there are two, would it not make sense just to revise our proposed bill here to agree with the code that's actually been issued for some time now—and just stands to verify within the courts, at least, what the rules are?

Mr. Giles Gherson: We've attempted to do that to the best of our ability prior to the emergence of the final draft, so I think the answer to that is yes.

Mr. Jim McDonell: Has the final draft changed from what we've seen introduced into the House?

Mr. Giles Gherson: You've seen the final version of Bill 60 insofar as the ministry is concerned. Obviously, the committee has the capacity to make amendments, but we built Bill 60 on the most recent information we had from the CRTC, which was the draft code. But the actual final code did go farther and had some provisions that the draft code did not have in it.

Mr. Jim McDonell: So those haven't been put into the bill.

Mr. Giles Gherson: That's correct.

Mr. Jim McDonell: So I guess my question really was, should we not attempt to do that through this process?

Mr. Giles Gherson: It's not really my job to give you advice, but I'm sure that's something that could happen.

Mr. Jim McDonell: When it comes to clause-by-clause, we have a very short time to do that.

Mr. Giles Gherson: I appreciate that.

Mr. Jim McDonell: We talked about some issues, and you talked about the bill being month-to-month as long as it's in the contract. Is that not something we would like—I'm wondering why it would be written out of the contract. After your agreement is over, wouldn't we want in all cases for the agreement to continue month-by-month until it's changed by the—would we not want to have that basically in the code, that it does not cease to exist?

Mr. Giles Gherson: That's exactly what's in Bill 60; so that if a fixed-term contract expires, it automatically defaults, effectively, to a month-to-month contract with unchanged provisions until the customer and the service provider agree to a new contract.

Mr. Jim McDonell: In your preamble, you talked about "unless it was written into the contract differently."

Mr. Giles Gherson: Yes, I'm sorry. It has to be in the contract; you're right. That's a provision that presumably would be offered by service providers in the original

contract, but what we were trying to get away from was the imposition of any contract terms that weren't agreed to by the customer. So it just has to be explicit.

The Chair (Mr. Grant Crack): Thank you. The third party.

Mr. Jagmeet Singh: Thank you for being here. You mentioned four essential components of this bill. Number four of those four was, you talked about the element of enforcement. Can you describe the mechanism or how this bill would assist in enforcement, and enforcement of what in particular?

Mr. Giles Gherson: There are a number of enforcement features to the bill. One of the main ones is that, in a sense, if there are refunds owing, the customer himself or herself has recourse to the courts to seek—

Mr. Jagmeet Singh: A remedy of three times—

Mr. Giles Gherson: A remedy; exactly. So that's there, and that is something that's not, for example, in the national code.

Also, to the degree that there is infringement on Bill 60 or there are violations of Bill 60, and complaints are brought to the attention of the ministry, we can seek directors' orders and other enforcement mechanisms from the ministry to the service provider.

Mr. Jagmeet Singh: That's what I was actually looking for, because in the first example, I understand—and I think that's good; I actually spoke about the fact that, providing a remedy like being able to sue for three times what you're owed is an encouraging thing, because it provides consumers with a real, tangible remedy. But in terms of this enforcement, could you give me an example of what a cellphone provider could do that someone could complain about, and then what enforcement mechanism you would actually be able to bring as a ministry?

Mr. Giles Gherson: Where, for example, language in a contract isn't clear and comprehensible, and so there is misunderstanding about what the contract terms are, that would be—where a pattern of complaints emerged about that from consumers saying, "We really weren't sure what was in our contract," or "There were things in our contract that we didn't realize were in there," and there was a pattern, that would enable the ministry to seek redress.

Mr. Jagmeet Singh: What would that action be? That's what I'm wondering. What action would the ministry actually take?

Mr. Giles Gherson: Normally, we would do an investigation, and then the director would issue a compliance order under the law.

1640

Mr. Jagmeet Singh: Okay. And does this bill provide for a new mechanism beyond what already exists in terms of the Ministry of Consumer Services?

Mr. Giles Gherson: That's the way the existing Consumer Protection Act operates.

Mr. Jagmeet Singh: Right, right. I was wondering, is there any additional enforcement that I'm not aware of?

Mr. Giles Gherson: No.

Mr. Jagmeet Singh: When you mentioned the idea of enforcement, I just thought there was something else in addition to that.

Mr. Giles Gherson: What this does is, it adds to the ambit in more particular terms than the Consumer Protection Act does.

Mr. Jagmeet Singh: I think it's helpful that the CRTC has indicated that provincial legislation can coexist with the national code. I think that's encouraging. Other provinces do have provincial codes that have been enacted, so it's not that we would be an exception. I believe it was Mr. McDonnell who brought up an example that if there was conflicting legislation between the wireless code—the national code and provincial legislation, you indicated that the wireless code would prevail—

Mr. Giles Gherson: The national code would prevail.

Mr. Jagmeet Singh: National, yes.

Mr. Giles Gherson: That's correct.

Mr. Jagmeet Singh: What, if any, are examples of any potential conflicts? Have you seen that, or has anyone on your team seen that?

Mr. Frank Denton: One example is the length that a fixed-term contract can last for. In the original bill, in Bill 60, the maximum term is 48 months. In the code, the maximum term is 24 months. That's an example.

Mr. Jagmeet Singh: Okay. Currently, though, the provincial legislation indicates the two years although, the CRTC says it has to be one year?

Mr. Frank Denton: Forty-eight months, so four years, and the code says 24 months, or two years.

Mr. Jagmeet Singh: I see. Those are in dispute, I guess. What do you think the cellphone providers will do in that case?

Mr. Frank Denton: What will the cellphone providers do?

Mr. Jagmeet Singh: Yes. What do you anticipate they'll do? Those are two different issues. One is saying the maximum is four years; the other's saying it's two years. What do you anticipate the providers will say to that?

Mr. Frank Denton: Well, the CRTC's position, as the deputy mentioned, is that where there's a conflict, the code would prevail.

The Chair (Mr. Grant Crack): Five seconds.

Mr. Jagmeet Singh: Well, thank you very much for your presentation.

The Chair (Mr. Grant Crack): The government side. Mr. Dhillon.

Mr. Vic Dhillon: Thank you for coming this afternoon. Can you tell us some of the more common complaints that the ministry receives from consumers?

Mr. Giles Gherson: The bill in fact was built around the kinds of complaints that we've been receiving. One of the complaints is that there's a lack of clarity of contracts, that in fact it's often hard to discern exactly what is being provided for in terms of services over the course of the contract. It's not as clear as it could be.

Consumers have difficulty comparing different wireless plans, partly because of the complexity of those

plans, but because of the way information is presented around those plans; partly also because of the way they're advertised. It's difficult to compare the price of one contract plan versus another from a rival provider because the price isn't all-in. You're comparing apples and oranges, which makes it extremely difficult.

So if one of the purposes of this bill is to really empower consumers to be able to make the right choice for themselves and their budgets, we believe it's important that you would be able to compare apples to apples, that you be able to say, "This plan, as advertised, is an all-in price. Everything is in there. I'm not going to have added fees and charges on top of this." So I can get into a conversation, then the bill sort of mounts, and then I can't compare it to what I saw in another plan.

Those would be some very important concerns that consumers have had that we attempt to address.

Mr. Vic Dhillon: Okay. With respect to similar legislation in other provinces, how does this line up? Do you have any examples or any information on the experiences that other provinces have had with this type of legislation?

Mr. Giles Gherson: When the predecessor bill, Bill 82, was drafted, we looked very closely at provisions of the Quebec legislation. It was viewed as a bit of a template for wireless contract protection in a province.

There was also a desire on our part not to have a kind of crazy quilt of different rules and regulations across the country, so it made sense to seek to be relatively as close as we could be to Quebec's legislation. In fact, other provinces, such as Manitoba and then Newfoundland, were also working on similar legislation and crafted their legislation very closely to Quebec's. So now what you have, excluding Ontario, is four provinces that have very similar legislation.

Mr. Vic Dhillon: With respect to the CRTC wireless code, how does this bill sort of complement that?

Mr. Giles Gherson: As I said, we think many features of the wireless code were drawn from our bill, Bill 82, last year, and other provincial laws. There's a considerable amount of similarity, so that was the basis, I think, of the code.

As we just mentioned, there are some provisions of the code that go further than the provinces now, for a couple of reasons—one is that federal jurisdiction over telecommunications gave the CRTC somewhat more scope in some areas than the provinces felt they had and certainly than we felt we had. For example, we didn't want to intrude into telecommunications business practices in any way—or business models. We didn't want to get involved in pricing and various aspects that we felt were beyond the purview of the province. Other provinces have taken the same view.

On the other hand, as I've mentioned, on the enforcement side and in terms of all-in price advertising, those are aspects of Bill 60 that are not in the code.

Mr. Vic Dhillon: Thank you. I think my colleague might have a question.

The Chair (Mr. Grant Crack): Twenty seconds.

Ms. Soo Wong: Oh, my God. Okay, I'm going to ask really quickly. Deputy, you know the bill that's before us—one of the biggest concerns we have is that this bill is for the consumers, especially the youngest consumers, young people. How do you see this bill? Every young person I know carries a cellphone. How do you see this bill protecting young people?

Mr. Giles Gherson: I think the clarity of contracts; information displayed much more clearly, so that consumers know exactly what they're getting; all-in price advertising, so when you see a price advertised, you know that's the price you're going to pay over the full term of the contract, not the monthly number that you see, which is a bit misleading; and the knowledge that that contract can't be changed over the course of your contract, are all important features for all consumers, but particularly, I would say, for young consumers.

Ms. Soo Wong: That's great. Thank you.

The Chair (Mr. Grant Crack): Thank you very much. We really appreciate your coming this afternoon and providing us with your insight.

Mr. Giles Gherson: Thank you.

The Chair (Mr. Grant Crack): Thanks to all the members of the committee as well.

We're running behind schedule about 17 or 18 minutes, so I would ask for some help from the committee. Would it be acceptable to move from eight minutes per caucus down to six so that we can ensure fairness for the three delegations that are remaining?

No opposition? Okay. Thank you very much.

ROGERS COMMUNICATIONS

The Chair (Mr. Grant Crack): It gives me great pleasure to welcome Rogers Communications. I believe we have a senior vice-president, regulatory, Mr. Engelhart, and I believe you're accompanied by two individuals. Perhaps you could state your name and introduce for the record.

Ms. Jan Innes: I will start off.

The Chair (Mr. Grant Crack): Okay. Thank you.

Ms. Jan Innes: Thank you for the opportunity to appear today. My name is Jan Innes and I'm a vice-president with Rogers. I'm here today with my colleagues Ken Engelhart, senior vice-president, and Josh Yarmus, Rogers legal counsel.

First of all, I'd like to acknowledge the deputy minister and his staff and the minister's staff, who met with us on a number of occasions to discuss this legislation.

Rogers is an Ontario company. We began in the wireless business in 1985. We are headquartered in Toronto, have offices across the province, and we employ 20,961 Ontarians.

I'd like to ask Ken to speak to our brief.

Mr. Ken Engelhart: Thanks very much, Jan. Rogers has been doing a lot of work over the last number of years to try to accomplish the same thing that you're trying to accomplish, which is to make our contracts and

our services simpler for customers to understand, and I'm happy to share some of those steps that we've taken.

One of the things that we did was we asked the CRTC. We were the ones who asked the CRTC to set up a wireless code, and they've done so. It was an exhaustive process. Consumers, ordinary Canadians, consumer groups, experts—everyone gave evidence, and the CRTC rendered a fairly comprehensive code that went further, in some cases, than what I asked them to do. They came up with ideas that they thought were innovative.

1650

The way that code is enforced is, in our view, about as perfect a system for consumers as you could have. There is a group called the CCTS. They are experts in the telecommunications field—free of charge for consumers. Consumers go to them with their complaints. They deal with the carriers. They can award damages. And if any carrier ever did something different than what the CCTS asked, the CRTC has order-making powers. So it is, in our view, about as good a system for consumers as you have. The system, with respect, in the Ontario legislation is a perfect system for class action lawyers, but I don't think it's as good for consumers as the way the federal code is enforced.

We have a few issues with the bill that I will quickly run through.

Section 3: The bill, really, would apply to consumers in other provinces, because it applies when either the person engaging in the transaction is in Ontario or when the consumer is in Ontario. Rogers is an Ontario company. We have people from BC phoning us at our call centres here and setting up contracts, so this legislation would affect them. In our view, the legislation should only affect people who are getting billed for their services at an Ontario billing address.

Section 8, which deals with advertising the total cost over the term: We're completely okay with advertising the total cost—absolutely, that is fair—but advertising it over the term makes no sense. You have to then take the monthly number, multiply it by 24, add the price of the phone. There are about 10 different phone prices, so all of our ads would have to have 10 different prices. People don't think that way. People want to know, "What will this cost me, all-in, every month?" So we don't think section 8 is good for customers.

There is some confusion with section 9, as well. It prohibits more than one agreement for the same device if their terms overlap. I don't know what that means. I teach communications law at Osgoode Hall Law School, and I can't tell you what that means, so I don't know how we would comply with that.

Section 10: There seems to be an effort here to add more paper to the contracts. If the bill said that everything that that consumer buys has to be in the contract, I understand what that means and I would do it, but it says everything "that the supplier is required to provide under the agreement." I'm not sure what that means, because there are some things that customers don't buy, but that they could get later—say they travel to China; they could

get roaming in China. So I don't quite know what it is that we're supposed to list in the contract.

Section 7 and section 8 are a little bit confusing. It's very common in contracts these days to refer people to a website: "You'll see all of these charges on our website." Some parts of the bill make me think we can do that, and some parts make me think we can't, so that's a source of concern.

Section 13 is another source of concern. We have brought in a very innovative roaming package at Rogers. Where we used to charge \$3 a megabyte, we now charge \$7.99 for 50 megabytes per day for roaming in the US. It's a great service. We think people really like it. But under this provision, section 13, we couldn't bring that in for people in Ontario. They would have to opt in, and we think that's a mistake.

Section 14 requires that every time you change a contract, you have to send the customer the whole thing again. Why not just send them the changes? People don't need all this paper.

Finally, alerting: The CRTC looked at it. They came up with a solution that is better than alerting, which is actually terminating service at a cap. So we don't think you need to bring in these alerting provisions.

Thank you.

The Chair (Mr. Grant Crack): Thank you very much, sir. We will start with the third party.

Mr. Jagmeet Singh: My question is, when you were consulted by the ministry—and I understand that you were consulted; you indicated that in the introduction—did you alert the ministry to these issues at that time?

Mr. Ken Engelhart: Yes.

Mr. Jagmeet Singh: Did they provide you with a response?

Mr. Ken Engelhart: They were—

Mr. Jagmeet Singh: I assume there's no solicitor-client privilege in this case.

Mr. Ken Engelhart: They were always sympathetic; they always said they would think about it. In some cases they said they would make changes, but the bill is still the way it is.

Mr. Jagmeet Singh: If you had to choose, what is the most concerning part of the bill for you?

Mr. Ken Engelhart: Well, I guess section 13, the idea that you can't change the optional services—I think that's a mistake—and the fact that you would have to advertise the 24-month price as opposed to the monthly price. I think those are the two biggest concerns.

Mr. Jagmeet Singh: There have been significant complaints against wireless service providers. I'm sure you're aware of that. What steps have you been taking to address that internally?

Mr. Ken Engelhart: Well, the biggest problem I think that people have—and I think it was alluded to by the deputy—was how confusing the contracts are. It was driving people crazy. So a year ago, we brought in simplified pricing. All of our plans that are in the market now have unlimited voice minutes. It's not so many minutes from 9 in the morning until 9 at night, so many

minutes on the weekend—too confusing for people. It's unlimited all the time.

Unlimited text: Some of our plans have unlimited Canadian long distance, and then you can buy one gig of data or 10 gigs of data or five gigs of data for different prices. That has led to a huge amount of reduction in our calls to our call centre. It really has made our life a lot easier, and it has made consumers lives a lot easier.

Mr. Jagmeet Singh: Do you charge a fee if someone wants to continue to receive paper bills?

Mr. Ken Engelhart: Yes, we do. There's a \$2 fee for a paper bill.

Ms. Jan Innes: Unless there's a reason why. If they don't have a computer, or if they aren't online, we don't charge, then.

Mr. Ken Engelhart: Yes, we'll waive it if there's any problem with the person, if they have no computer, if they don't know how to work one—we'll waive that charge.

Mr. Jagmeet Singh: But they have to write to you—

Mr. Ken Engelhart: Or phone us.

Mr. Jagmeet Singh: —or phone you. Would a letter suffice?

Mr. Ken Engelhart: Yes.

Mr. Jagmeet Singh: Why did you implement that?

Mr. Ken Engelhart: Really, it was that online billing is so much better for the environment; it's so much better for us. Most consumers really like it, and they needed a little prod to get to online billing.

Mr. Jagmeet Singh: Do you agree with the assertion that there can be a provincial code and federal code, that both can coexist?

Mr. Ken Engelhart: Not really. The CRTC said that if there's any conflict between the two, the federal one will prevail. For example, in the Nova Scotia bill, we have to hand a brochure out to customers alerting them about cyberbullying. That's nothing that was ever in the federal code. It's nothing the CRTC ever looked at, so I believe that provision is constitutional. But the things that I've talked about in my brief and that the deputy talked about, for the most part—those were all things that the CRTC examined, and the CRTC, in their decision, rejected or modified or supplemented. So I believe the federal code would have precedence for all of those things.

Mr. Jagmeet Singh: Currently, other provinces do have their own provincial code, and things seem to be working. Would you comment on that?

Mr. Ken Engelhart: Well, Quebec was the first to bring in that the cancellation fee has to be the amount of the phone subsidy depreciated on a straight-line basis over the contract. When that came into the Quebec law, we changed that for all across Canada. So that, which is a key part of the Ontario bill—we've been doing that in Ontario now for a couple of years.

Most of the things we've done because they're already done. Most of the things were implemented by the CRTC code, and most of those things make sense. The areas that I've identified to you today are areas where the provin-

cial legislation differs from what other provinces have done.

Mr. Jagmeet Singh: How much time is on the clock?
1700

The Chair (Mr. Grant Crack): One minute.

Mr. Jagmeet Singh: Okay. One of the issues that's been brought up is that if you have different laws in different jurisdictions, it would impact the business. My position on that is that I don't see that it's impacted the business if you look at the different jurisdictions that currently have provincial legislation that are somewhat different from each other. That's my assertion. Do you have a comment on that?

Mr. Ken Englehart: Yes. This bill provides for alerting, but leaves to regulation how the alerting is to be done. The CRTC has set up a system of caps instead of alerting, so it's really an alert backed up by, "Your service is cut off unless you buy more, consciously." It's costing us tens of millions of dollars to build that system for the CRTC by December 2, and we will have it done. But if Ontario then said, "Well, we've got a different system" that will also cost us tens of millions of dollars, I don't think that's good policy.

Mr. Jagmeet Singh: Are there any other examples of existing policies in other provinces that are causing you problems?

The Chair (Mr. Grant Crack): Five seconds.

Mr. Ken Englehart: Yes. That \$7.99 roaming plan that I mentioned: In Quebec, you have to opt into that. You can't get it automatically, which is, I think, a huge problem for Quebec consumers.

The Chair (Mr. Grant Crack): Thank you very much. The government side.

Mr. Vic Dhillon: Have you had any conversation with the ministry with respect to the substance of this bill? If so, to what extent?

Mr. Ken Englehart: Yes. As Jan mentioned, we talked to the ministry and shared our views with them.

Mr. Vic Dhillon: What kinds of concerns are you getting from your customers with regard to your billing practices?

Mr. Ken Englehart: As I say, with some of our older plans, they were very confusing. They were very confusing, and they led to a lot of problems. That's why a year ago we brought in simplified pricing, and quite frankly, it's made a world of difference. A few weeks ago, we brought in even more simplified pricing, because now everyone in the family and all of your devices—your iPad, your iPhone, all your devices—can share one data plan. It makes it even simpler.

Complexity was a huge problem, and I believe we've gone a long way to solving it.

Mr. Vic Dhillon: Do you feel that your customers understand their billing, especially the added costs of cancellation, roaming and usage limits? Do you feel they have a good grasp of what they're paying for?

Mr. Ken Englehart: Roaming is another problem area. We're in the wireless business, and our customers were so afraid of roaming, they were turning their phones

off when they went out of the country. That's a terrible thing. That's why we brought in a \$7.99 roaming plan in the US. Our typical smart-phone customer in Ontario uses 800 megabytes a month. That's about 30 megabytes a day. Our US plan gives you 50 megabytes a day for \$7.99. That's cheaper than the Wi-Fi in an expensive hotel. For \$7.99 a day, you can use your device to your heart's content, and it's easy to understand—because nobody knows what a megabyte is; nobody knows how many megabytes in a photo. It's too difficult. So we're trying to make it simpler for customers and we're trying to encourage them to leave their phones on.

Mr. Vic Dhillon: Do you provide your customers with information on what services they are receiving?

Mr. Ken Englehart: Yes. The CRTC code also requires, in addition to everything we're already doing, a summary at the beginning of the contract that gives them a crisp explanation of what they're getting.

Mr. Vic Dhillon: And what happens—go ahead.

Ms. Jan Innes: And the customer is walked through that process at the store. So when they buy a new device, the clerk runs through all the things they will be paying for or what features they are getting at that point.

Mr. Ken Englehart: It's called our Walk Out Working package, because if the customer doesn't understand what they're getting in the store, that leads to phone calls a month later, and that's crippling for our business. We want to make sure that when you leave that store, you understand your deal.

Mr. Vic Dhillon: What's the process when your customer amends a fixed-contract bill?

Mr. Ken Englehart: Say you've bought a phone that would normally cost \$500, and we sell it to you for—let me use a simpler example: a \$300 phone, and we sell it to you for \$60, so there's a \$240 subsidy.

If the customer quits that contract on day one, they pay a \$240 penalty. If they quit it in month 20, they pay a \$40 penalty. If they quit it in month 23, they pay a \$10 penalty. So that \$240 subsidy is amortized over the length of the contract.

Mr. Vic Dhillon: How confident are you that you feel that your customers understand what they've signed up for?

Mr. Ken Englehart: As Jan said, with this Walk Out Working package, we now are pretty confident, and I'm happy to share a copy of it with you and what it looks like. With that, plus the simplified billing, we think it has done wonders.

I can tell you—you're concerned; your constituents are concerned—we were concerned before we made those changes, because the business was just too complicated.

The Chair (Mr. Grant Crack): One minute.

Mr. Vic Dhillon: Thanks for your presentation. Some of the concerns that you have raised, I think, will get consideration, and I think, as we go along, we'll be able to resolve some of the concerns that you've raised. Thank you very much.

Mr. Ken Englehart: Thanks.

The Chair (Mr. Grant Crack): To the members of the opposition.

Mr. Jim McDonell: You mentioned the all-in pricing. I guess I have to agree that there's some confusion in that. The monthly rate seems to make the most sense but, of course, the monthly rate is determined by a lot of factors. If you have a high data rate minimum or a low rate, your basic monthly rate looks one way. But when you have some of these other features that may kick in on a higher-priced monthly service, that wouldn't belong to a lower-priced one, it really tends to be confusing.

Do you see any way of making that clearer under this legislation, or is it just going to be confusing?

Mr. Ken Englehart: I don't think it's that confusing. The concern used to be with add-on charges. It would be \$30 a month, plus you pay—like with your wire-line phone at home, there's a Touch-Tone charge of, I think, \$4 a month for your Touch-Tone phone, even though you can't buy one that's not a Touch-Tone phone.

A couple of years ago, the Competition Bureau basically came down on one of our competitors like a ton of bricks and said all of those additional charges have to be in there. So we've all been advertising all-in pricing, and I think that is looked after, so I don't think you'll find monthly prices that are different than what is advertised.

Mr. Jim McDonell: You also mentioned about the bill having to apply to people who live in Ontario versus the way the contract's written. I guess the reasoning for that is your call centres are here. People call from all over the world, or all over Canada. So by not changing this bill, we'd probably be encouraging you to move out of the province to a place where it didn't require—

Mr. Ken Englehart: We did raise that, with the staff, yes.

Mr. Jim McDonell: If I buy—the example of a phone and it's a two-year plan. At the end, the phone is mine; straight line has covered it. If somebody chooses to unlock the phone, what's the process that you're following right now, and where would you see it under this legislation?

Mr. Ken Englehart: You can actually unlock your phone within 90 days of the contract starting, so even if you're still under contract, you can unlock that phone. That's something we brought in, and I believe the CRTC put unlocking in the code too.

Mr. Joshua Yarmus: It's in the code as well.

Mr. Ken Englehart: Yes, the CRTC has covered that in the code.

Mr. Jim McDonell: So that's within 90 days of it starting?

Mr. Ken Englehart: Yes, just because we often get fraud; we have a huge amount of fraud in our business. Somebody comes in and they set up an account; it's not even them, and they've used a false identity. After 90 days, we're pretty sure it's you, and then you can unlock your phone.

Mr. Jim McDonell: Is there a cost to that, because there is a process?

Mr. Ken Englehart: Yes, there is a cost, and it's \$50 a month.

Mr. Joshua Yarmus: No, it's \$50, a one-time fee.

1710

Mr. Ken Engelhart: Sorry; it's \$50. That's because some providers don't charge you and they just hand you a code, and if you're someone like me and you have a phone and a code, you're lost. We have a CSR walk you through the whole process—"Do this; do that"—and they stay with you on the phone to make sure it's done. That's the \$50 charge.

Mr. Joshua Yarmus: And if I may add to unlocking it: If you've purchased the phone outright without a subsidy, we'll unlock it right away.

Mr. Jim McDonell: At no charge?

Mr. Joshua Yarmus: There is the \$50 charge, as well.

Mr. Jim McDonell: Even at the end of the contract, the \$50 charge still applies.

Mr. Joshua Yarmus: Yes, that's right.

Mr. Jim McDonell: You talked about not changing the options and elaborated on that. I can see, I think, what you're meaning: People do travel; they want to change options during their vacation. How does this law prohibit that now, the proposed law?

Mr. Ken Engelhart: We used to charge \$3 a megabyte for travel to the United States, and we changed that to a plan of \$7.99 per day for up to 50 megabytes, which I think is a wonderful plan. But in Quebec, if we had brought that plan in—because they have legislation similar to what is proposed here—some class action lawyer would have said, "There are a million customers out there who only wanted to buy one megabyte a day. They would have only paid you \$3, and now they're paying you \$7.99. So this is a rate increase because they didn't want the other 49 megabytes, and we're going to whack you with a class action lawsuit for treble damages for a zillion dollars."

In Quebec, that plan is not automatic as it is for Ontario customers. Quebec customers have to click "I agree" before they get that plan, and a lot of people, when they see that "I agree" box, just don't click it. So they're ending up paying a lot more money than Ontario customers. That's an example, I think, of unintended consequences. When you try to do something good for customers, you can actually sometimes frustrate an innovative new program.

The Chair (Mr. Grant Crack): Forty-five seconds.

Mr. Jim McDonell: That's fine.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Engelhart, Ms. Innes and Mr. Yarmus, for coming before us this afternoon. We appreciate it; very good insight. Thank you again.

Mr. Ken Engelhart: Thank you.

CANADIAN WIRELESS TELECOMMUNICATIONS ASSOCIATION

The Chair (Mr. Grant Crack): It gives me great pleasure at this point to welcome, from the Canadian Wireless Telecommunications Association, a gentleman, I'm sure, who knows a little bit about politics: Mr.

Bernard Lord. Welcome, Mr. President. Perhaps you could just introduce yourself for the record and who is accompanying you this afternoon.

Mr. Bernard Lord: Thank you very much, Mr. Chair. My name is Bernard Lord. I am the president and CEO of the Canadian Wireless Telecommunications Association. I'm here today with Devon Jacobs. Devon is our senior director of government relations. And Kurt Eby; Kurt is our director of regulatory affairs.

There was a slide deck that was shared that you could pick up on the way in to get a copy of the slides. My key message today will be that Canada is a world leader in wireless telecommunication. This sector of the economy and this industry is consumer-driven, it is economically competitive and it is socially responsible. Also, a key message today is that Canada only needs one national code and therefore Bill 60 is no longer needed.

Wireless telecommunication is a federal undertaking, and I would ask you not to add costs or complications or confusion for consumers.

One thing that we've noticed is that Canadians are connected more than ever before.

I'll go through these slides very quickly. Slide number 2 tells us who we are. You can find this online. Since I only have six minutes, I won't spend a lot of time talking to you about the association.

Slide number 3 is where you'll find all these logos. These are some of the social responsibility initiatives that we have launched as an association, from the wireless Amber Alert to a recycle program, and you can get more information on each of these programs. Most of these programs, if not all, are completely voluntary programs undertaken by the industry.

Slide number 4 is an important one. It talks about the fact that we have super-fast networks in Canada. It's important to keep that in mind. We cover 99% of the population throughout Canada. The percentage of Canadians who can access a fourth-generation LTE—long-term evolution—wireless network is 72%. That was at the end of 2012. Those are the fastest commercially available networks in the world. They're found right here in Ontario and right here in Canada. In fact, Canada has the second-most number of LTE networks of any country in the world.

If you look at slide number 5, smart phone usage, you will see how we compare in the G8. Canada has the second-highest adoption rate in the G7. If you look at slide number 6, it shows you the average smart phone data traffic per month in the G7. Canada is second in the G7, and that is 77% more than the world average.

The key message here is that Canadians are heavy users of data, and that's one thing you have to keep in mind. I remember when I first bought that first phone, it was a bag phone. Some of you may have had one of those bag phones. They used to call them car phones, because you needed the car to carry that phone around, and all you could do with that phone was call. I thought that was the coolest thing in the world. It was a dollar a minute to use.

That was about 20 years ago. Things have moved extremely rapidly in this sector, and they continue to evolve so quickly that, when you look at this chart, data traffic—so, how people use their smart phones—data consumption will grow 900%. I want to repeat that: 900% in the next five years. That's how fast things are changing.

My word of caution to any regulator or legislator is to make sure that you don't regulate looking in the rear-view mirror. Looking at how things used to be and trying to figure out how they're going to be, sometimes governments get caught and there are some unintended consequences. This is one of those examples.

The next slide just talks about the economic impact of the industry. It continues to grow. Even though 2008 was a devastating year for investment because of the world slowdown, this sector of the economy in Canada made record investments in 2008. We support over 280,000 jobs, and its total impact on the economy is over \$50 billion. These are the investments that have been made in networks since 1987; that's over \$37 billion invested in the Canadian economy.

I want to turn your attention to this slide. This shows the capex per subscriber in 2011. What you see here—the red bar—Canada has the second-highest capex per subscriber in the world. We invest more per consumer on our networks than virtually every other country except for one. The reason for that is that we have a very large country that is sparsely populated, and we have the fastest networks in the world. This level of investment is 260% of the world average.

This brings me to this slide, which talks about the CRTC code. As was mentioned by Ken Engelhart from Rogers, the CRTC code was one that we asked for. We approached the CRTC. We asked the CRTC and the federal government to come up with one national code, and we requested this process because we believe that one set of rules that applies to all Canadian consumers is better than a patchwork of provincial regulation. One set of federal rules will avoid confusion for consumers, and will reduce costs for governments, consumers and businesses.

We believe that Bill 60 is no longer needed. The landscape has changed significantly since Bill 60 was tabled. I quote here from the commission's decision, which says that "the commission considers that the wireless code should apply to all individual Canadian consumers of wireless services equally wherever they reside. The commission notes that where the wireless code is in direct conflict with a valid provincial law, the wireless code takes precedence." It's quite clear where the CRTC stands on this.

The next slide: "Existing and proposed provincial legislation regulating mobile wireless services contracts are outside the constitutional jurisdiction of the provinces." This legal opinion comes from Justice Bastarache. This was issued in February 2013. Justice Bastarache is a former Supreme Court judge; he retired from the bench a couple of years ago. This legal opinion was supported

and contracted by the Public Interest Advocacy Centre and also some members of the industry. He also goes on to say, "These provisions specifically target federal undertakings and have substantial effects on their operations. In pith and substance, they would be an impermissible provincial attempt to regulate telecommunications, an area of exclusive federal jurisdiction."

The Chair (Mr. Grant Crack): Okay. Thank you very much, Mr. Lord. I apologize for interrupting. You were doing so well.

Mr. Bernard Lord: It's okay. That was the essence of what I wanted to say.

The Chair (Mr. Grant Crack): I would ask the government to begin questioning.

1720

Mr. Vic Dhillon: Thank you very much. Can you tell us what your members' impression is of how consumers understand their wireless contracts, especially with respect to cancellation fees and usage limits?

Mr. Bernard Lord: As was mentioned earlier today by members from Rogers, we represent large carriers, national carriers, we represent small carriers: from TBayTel to Rogers, Bell, Telus; in other provinces, Videotron, EastLink. So we have some new and old. What we've noticed is that consumers are becoming better informed—because in this industry, even though it's evolving very quickly, consumers are more informed and better informed as to what they can get.

So if you go back to when we had 1G phones, you could basically get calls, and then with 2G you could get call and text. Now you can get data, and that was the advent of 3G. Now with 4G, you can get superfast data. You can stream live TV. Consumers know that, and when they go shopping now, they've had the experience of—most Canadians are now not buying their first phone, but are buying their second or third phone. So they've learned from that experience. I would say that our members have learned from that experience as well and they have worked to find ways to simplify their contracts, to make it easier for customers to understand.

As you've heard today from the representative of Rogers, they want happy customers, because they want their customers to stay with them and renew their contracts at the end of their contracts, if they have contracts, or, if they don't have a contract, stay with them either way.

Mr. Vic Dhillon: And how have your members adapted their business practices in response to Quebec's 2010 consumer protection legislation—

Mr. Bernard Lord: Well, some of our members—and again, not all members acted the same way, because some members did business in Quebec and some did not do business in Quebec, as you would appreciate. SaskTel and MTS, which are members of our association, don't operate in Quebec, but they did adapt as best they could to the legislation. But even those who were not in Quebec found ways to simplify their process to make it easier for customers to understand, and I think that's the normal evolution of the business and the industry, not necessarily

a direct impact of the legislation. So it's a combination of both.

Mr. Vic Dhillon: Did the prices increase as a result of Quebec's legislation?

Mr. Bernard Lord: Well, some costs increased, but prices in the wireless industry have been going down and will continue to go down even though consumption will increase, which is the difference between what you pay at the end of the month versus what you pay per unit. So if you go back 20 years ago when making a call was a dollar a minute, it's no longer a dollar a minute. If you buy a plan from most of our members on a fixed-term contract, you will get close to unlimited calls, if you don't get unlimited. You can certainly get unlimited calls today and you can get unlimited texts with a lot of plans out there. That was not the case before.

That is not a result of government regulation or government legislation. That is a result of two things: That is a result of better technology and investment, and the fact that this industry is consumer-driven and that's what consumers wanted and it's a response to the marketplace. So it's really the marketplace and the investments in technology that have lowered the price per unit.

What you will find in Canada, however, is that Canadians are heavy consumers, so we're heavy users and we tend to buy the most sophisticated devices. If you go into most stores in Canada—there was the iPhone launch just a few weeks ago—you'll be hard-pressed to find the iPhone 5s, which is the top-level model. You can still find some 5c models. That's because Canadians tend to buy the most sophisticated devices—the same with the BlackBerrys, the same with the Samsung—and they use them, and they use them heavily.

Mr. John Fraser: Consumer protection is a provincial jurisdiction, and that's why we're putting this bill forward. That's why some of the provisions that we talk about are very important. Now, I've got a note here that actually comes from the commission, a direct quote from commission counsel, that says they don't consider the conflicts—actually, it says, “The commission considers that such conflicts are minor under current provincial legislation.”

One of the provisions in this bill is that explicit consent—and I think we have heard it—is required for any changes to a fixed-term contract. Can you let the committee know how that would be in conflict with the national code or why that's not a good thing?

Mr. Bernard Lord: First of all, I want to go back to the premise of your question. I want to quote Justice Bastarache on that specifically. He said, “In the alternative, even if a court were to find some or all of these provincial initiatives valid, they would nonetheless be inapplicable to mobile wireless service providers as a matter of interjurisdictional immunity, as they would impair the vital part of the operations of federal telecommunications undertakings.”

Don't take that from me. That comes from a former judge of the Supreme Court of Canada.

I think it's very important to understand that this is a federal responsibility. Provinces cannot take a back door

to try to overtake a federal jurisdiction, the same way that the federal government, if you exclude its power to spend, cannot do that.

The Chair (Mr. Grant Crack): Ten seconds.

Mr. John Fraser: Okay. We're good.

The Chair (Mr. Grant Crack): Thank you very much. We'll go to the opposition.

Mr. Jim McDonell: Thank you for coming out today. One issue near and dear to me is service to rural Ontario. I know there's a cost to that, of course, and certainly the denser areas are served first. That's where all your competition is, so that's where all the capital goes.

Is there any plan that you could see that would encourage that in the province? Because large tracts of this province are basically unserved with cell service and Internet, which you also provide.

Mr. Bernard Lord: Yes, we do provide that. Our members continuously invest more to not only improve the coverage areas where they have it but to expand them. Investments in networks are done to enhance the speed and reliability of the existing footprint and to expand that footprint as well. To be blunt, there's absolutely nothing in this bill that will assist that in any way.

If anything, every time governments step in to add regulatory burden—another hurdle, another hoop for businesses to jump through—the end result tends to be less investment, not more, because it spooks investors. When the rules aren't clear, that scares off investors. That's not a provincial responsibility; that is a federal responsibility.

There is an auction coming up—you may have heard; there's been some discussion about that auction this summer. This new frequency is the frequency that was used by TV stations before, for broadcasting. This could improve service in rural areas, because the signal can travel further and more easily than some of the other frequencies that are currently used, which means you don't need as many antenna sites or towers to deliver that service or to get the service for residents and users.

There are things that are planned by our different members to continuously expand the coverage. I did mention that we cover 99% of the population. We cover about 18% of the territory.

Do you want to add something, Devon?

Mr. Devon Jacobs: We face some resistance in some communities with putting up antennas. It will be helpful if we can get towers erected, which will help service tremendously in expanding it.

Mr. Jim McDonell: Data service is also the second-highest in the world, and it's continuing to go higher. Where do you see us taking that? I guess it's taking in more and more equipment, so you're not just talking cell-phones; you're talking about tablets; you're talking about things that are getting into video.

Is that an issue with this bill, or is it confusing to customers?

Mr. Bernard Lord: I think it's important to trust customers—customers are smart. Canadians and consumers are smart. They know how to shop around; they know

how to get a good deal. They know when they get a good deal and when they don't.

One of the reasons we asked the CRTC to establish a code is we felt it would be important for the same rules to be applied across the country. That way, whether you live in Moncton, New Brunswick, downtown Toronto or you're working in Alberta, you know what the rules are. If your cousin's in Nova Scotia or your brother's in Saskatchewan, you can talk about cellphone coverage and service; you can compare plans, and it helps.

Having one set of rules also reduces cost of compliance. When you reduce cost of compliance, then you reduce cost to consumers. When you add cost to compliance, you add cost to consumers.

What we know about Canadian users is that we are heavy users, and that's not just for wireless. I was talking to some executives at Google recently. Canadians are the highest users of YouTube in the world. We're among the heavy users in terms of Internet, and everything is moving to mobile, so you want to make sure that you don't get in the way of that innovation and get in the way of consumers who want to do things differently than what used to be done.

1730

The important thing is to make sure that consumers are well-informed, that they have choices and they can exercise their choices in an informed way.

Mr. Jim McDonell: I also see that this bill looks at putting a system that would inform people when they get close to the caps whereas the feds look at providing an app. What are the issues around providing that hard warning system? I know the wired Internet providers provide that because I just received a warning last month for the kids at home.

Mr. Bernard Lord: I'll ask Kurt to explain some of the details, but I will simply say, the federal code is quite clear that if the code or provincial legislation deals with the same thing, it's the code that has precedence. In this case, what the federal code dictates is what will happen.

Mr. Kurt Eby: And further to that, I think what Mr. Engelhart from Rogers said is really the answer, that this has already been one rule to address that problem, which is that the hard cap was put in by the CRTC. They looked at notifications or warnings and all the options available and they determined that the cap was the best option and the consumer can choose to have it in place or not. I think, inevitably, the carriers are going to want someone who hits a \$50 cap to easily have the option to say, "I want another \$50," or whatever. The cap itself kind of facilitates that there will be some kind of notifications coming anyway. But I think the conflict is, this has been addressed one way. To address it another way, as he said, would be extremely expensive and to no benefit.

The Chair (Mr. Grant Crack): Thank you very much. We'll move on to the third party.

Mr. Jagmeet Singh: I guess in the beginning, just to understand—the CWTA is made up of members of all the various cellphone service providers in Canada, essentially?

Mr. Bernard Lord: We have cellphone providers, network equipment manufacturers, phone manufacturers and content providers.

Mr. Jagmeet Singh: And your primary interest is that you don't support provincial legislation because it's already been dealt with on a federal level?

Mr. Bernard Lord: Our primary position here is that a national code is better than 13 different provincial codes. One set of rules will reduce costs for consumers and providers and will simplify—when we talk about making sure consumers know and are well-informed, if you have 13 sets of rules—and there are a lot of people in this country who travel from one province to the next; some live close to the borders. They see ads that are in one province and not their own. This will simplify everything, and that's the reason why we asked the CRTC.

I want to give credit where credit is due. The fact that the province of Ontario did step up to the plate, after some of the other provinces, certainly helped prompt us to ask the CRTC to step in, because we felt it was getting to a point where every province would want to put their finger in the pie. Let's just have one set of rules.

Mr. Jagmeet Singh: There are certain provisions for protection included in the provincial act that go beyond what the CRTC has. One of those specifically is that there is a remedy, that you can take the cellphone provider to court. Would you agree that specific provision doesn't exist in the CRTC?

Mr. Bernard Lord: What I would suggest is that the CRTC examined all those issues—

Mr. Jagmeet Singh: I don't mind you elaborating, but you do agree that that doesn't exist in the CRTC? You can elaborate after that.

Mr. Bernard Lord: Sure. Well, it's different. There are some minor differences. But the fact that the CRTC examined those issues and made the determination, that in itself is exercising the federal responsibility in this area. So the fact that CRTC looked at this, examined this, they questioned themselves, they questioned witnesses, they asked people to provide input—the province of Ontario did provide some input, other provinces provided input, citizens from coast to coast provided input. Just the fact that they looked at this and made the determination, that is exercising the federal responsibility in wireless telecommunications.

Mr. Jagmeet Singh: Which would have been great if I asked you about the federal responsibility. I asked you—

Mr. Bernard Lord: Yes, but the reason why it's important is because it's not a question that one section is more or less than another. It's the fact that the CRTC did examine all of these issues, and that in itself is exercising their authority.

Mr. Jagmeet Singh: One of my concerns is—you mentioned, and it's true, that data usage is increasing its trend globally. It's increasing in Canada. Canadians are particularly high in data usage.

Canada has also some of the highest rates, or the most expensive rates, for data if you compare globally. We're

not anywhere near the cheapest. We're certainly amongst the more expensive. In terms of our cellphone plans, broadly speaking, our cellphone plans are amongst the most expensive in the world. Do you have any explanation for why that is the case?

Mr. Bernard Lord: First of all, that's a misconception, because Canadians are heavy users. When you look at monthly bills, some Canadians may have bills that are higher than other parts of the world, but it's because we consume more. And when you look at—

Mr. Jagmeet Singh: Just to clarify, I'm talking about the rate plans—

Mr. Bernard Lord: Absolutely, and I'm glad that we are.

Mr. Jagmeet Singh: —not the actual usage.

Mr. Bernard Lord: Yes.

Mr. Jagmeet Singh: The rate plans in Canada are amongst the highest. Just the plans, not the usage, which might be a different issue. I'm talking about the rate plans are amongst the highest—

Mr. Bernard Lord: But they're not among the highest.

Mr. Jagmeet Singh: —especially data.

Mr. Bernard Lord: I'll be happy to provide you, and other members of the commission, studies that have compared pricing. But one thing that's very important when you talk about data is how fast you can consume that data.

Let's say I want to go from Moncton, New Brunswick, where I live, to Toronto, and I want to travel. It's about 1,500 or 1,600 kilometres. I can take the plane; it would be \$300. So it's \$300 for 1,600 kilometres. Or I can go by bicycle. It would be a lot cheaper, but one is a lot slower.

It's the same thing with data consumption on wireless networks. Our networks are faster. So you get to actually consume data at a pace that really matters.

Imagine you're streaming live TV. You can see it—

Mr. Jagmeet Singh: I can just speed up this argument. In countries like India, there is LTE available widely and—

Mr. Bernard Lord: Not at the speed we have here.

Mr. Jagmeet Singh: LTE is available widely—LTE, the same network, the LTE network—and the rate plans are considerably lower. They're half of what we are paying here—lower than that. Hong Kong is another example. In some of the Nordic and Scandinavian countries, data plans are considerably lower.

I'm just wondering why. The infrastructure for data, the cellphone towers and the satellite technology that's required: There's not more of a cost in Canada versus—as far as I understand it. If you can explain that further—

Mr. Bernard Lord: I would love to see the studies that you have to share those numbers, because as recent studies have shown, the speed of our networks in Canada are 75 times faster—sorry, 75% faster—than they are in Europe.

But there are all sorts of other factors. The fact that we have a population of 35 million people and the second-largest land mass in the world has an impact as well.

But the fact is, Canadians, when you look at how much we pay versus how much we could pay—how much Canadians spend on wireless telecommunication as a factor of GDP is the second-lowest in the world.

We live in a very wealthy country, and Canadians consume a lot, and we have the advantage of having the superfast networks, and we do have the fastest networks commercially available in the world here in Canada. That's one of the advantages that we have.

The Chair (Mr. Grant Crack): Thank you very much. I appreciate, Mr. Lord, your coming, and Mr. Jacobs and Mr. Eby for coming. I really appreciate it, and for providing us some great insight.

Mr. Bernard Lord: Thank you very much.

CONSUMERS COUNCIL OF CANADA

The Chair (Mr. Grant Crack): At this time, I would like to welcome Mr. Ken Whitehurst, executive director of Consumers Council of Canada.

You have six minutes for your presentation, and I believe we'll probably only have five minutes per caucus to be asking questions, as that will take us right to about 6 o'clock. So welcome, sir.

Mr. Ken Whitehurst: I hope the questions will—that I'll actually give you answers to them.

Thank you, Mr. Chairman and members of the committee. I'm pleased to be here with you this evening on behalf of the Consumers Council of Canada.

The council is Ontario's and the country's most active volunteer-led consumer advocacy organization. The council's mandate includes the objective to work collaboratively with consumers, business and government, seeking an efficient, equitable, effective and safe marketplace for consumers by informing and advocating concerning consumer rights and responsibilities.

1740

The organization has an independent volunteer board of directors elected by its members. Its membership is open to application from the public. The council supports itself through a mix of membership and sponsorship fees, awards, contributions and social enterprise initiatives.

Since the council's inception as a non-profit corporation in 1994, it has been committed to producing evidence-based consumer research in support of its mandate and its representation.

The Office of Consumer Affairs, Industry Canada, has funded the council many times through its competitive contributions program for qualifying consumer groups.

The council has extensive experience with processes involved in providing all levels of government with consumer impact research and analysis. In addition to its research and the participation of members, the council also engages in five forms of outreach and consultation: advisory committees and stakeholder panels; the council's Public Interest Network; the Young Consumers Network, aged 18 to 35; surveys of Canadians about views related to specific consumer issues; and it accepts consumer complaints.

The council's volunteers represent consumers in many settings, including, for example: Advertising Standards Canada, the Canadian Commission on Building and Fire Codes; the Canadian Food Inspection Agency; the Canadian Payments Association; the Canadian Radio-Television and Telecommunications Commission; the Competition Bureau Fraud Prevention Forum; the Electrical Safety Authority; the Financial Consumer Agency of Canada; the Independent Electricity System Operator; the Ontario Energy Board; the Ontario Ministry of Housing Building Code Advisory Council; the Ontario Motor Vehicle Industry Council; the Pharmaceutical Advertising Advisory Board; the Standards Council of Canada; the Technical Standards and Safety Authority; the Travel Industry Council of Ontario; and Waste Diversion Ontario, just to name a few.

The council actively seeks opportunities to support research relevant to its advocacy, and it provides consumers and public processes with useful information.

The council welcomes the attention of committee members to Bill 60, the Wireless Services Agreements Act. This bill presents an opportunity for MPPs to address a leading source of consumer complaints in Ontario.

Most of us in this room, and close to 80% of the people in Ontario, own a cellphone or wireless device, according to Statistics Canada. In our fast-paced texting and tweeting society, it is almost impossible to get by without one.

For school kids, seniors and everyone in between, cellphones now meet basic needs of everyday life. Cellphones can even provide the homeless an address.

But too many of us don't know what our cellphone contracts actually mean—how our costs are calculated, what to expect on our monthly bills or why they are high, and why it costs so much to cancel a contract. Worst of all, the poorest usually must pay the most.

Consumers must have clear, easily understood information before deciding to sign a wireless agreement.

The CRTC reported in September that Canadians pay an average of nearly \$61 per month for their cell service. That figure is up 5% from less than \$58 in 2011. Canadian families spent an average of \$185 each month on services in 2012 compared to \$181 the previous year. That's \$2,220 a year, a big part of the household budget.

At prices like this and higher, consumers must understand—before they buy—the costs that contract terms impose. They should not be penalized for responsibly managing their budgets when life events make these services too expensive to afford.

At the Consumers Council of Canada, we hear about too many problems sparked by complex agreements and by the unreasonable commitments required to get affordable service. So we've spent a lot of time considering what has gone wrong.

Action must be taken to fix the problems with wireless service agreements in this province. Consumers need to know that Ontario's standards for fairness in contracts will apply.

Bill 60 harmonizes well with the federal wireless code. By the way, the federal wireless code and many of its aspects continue to be challenged by the industry. It's far from a foregone conclusion how things will turn out, or when things will turn out, concerning the wireless code.

We congratulate the members of the Ontario Legislature for moving ahead. Consumers deserve simplicity, clarity and fairness in their cellphone and wireless service agreements.

Thank you.

The Chair (Mr. Grant Crack): Thank you very much. I really appreciate that.

I believe we're going to the official opposition.

Mr. Jim McDonell: Thank you. You talked about being a collector of complaints from the public. You have a summary of the major complaints that you receive every month—or, I should say, not every month, but over the time period?

Mr. Ken Whitehurst: I'll tell you that the most authoritative source of complaints is your own Ministry of Consumer Services, which counts the complaints well, but you can also look at the Commissioner for Complaints for Telecommunications Services reports. The industry pays for those reports, even though they are showing that complaints are climbing.

The thing that we run into with complaints—I think a very important thing to understand around prices is it's about the value people feel they're receiving for what they pay. An awful lot of people buy service agreements well in excess of their needs, and pay for it because they fear the even greater prospect of really spiky prices if they don't subscribe to a futures contract. I think we've seen that in the electricity sector and the natural gas sector and how well that worked. That's the kind of environment, so they already feel intimidated to take a risk management position. Once they have these agreements in place, and then they're faced with a downturn, then they get to pay a penalty to get out of it.

Some of this is understandable. People have been told, "We are giving you a benefit," right? You've heard the language here today.

It was interesting: One of the presentations mixed "benefit" with "amortization," and I think that's the right mixture. It's the right mixture, because what people are getting is a loan. Somehow, they're paying this loan, and if they want to exit the loan early, then they've got to pay for it. Then they're surprised, because they thought they received an inducement to choose a particular carrier: "You lured me here; you're going to be my carrier; I'm being nice to you." But really, what they've been offered is a set of loan terms, and they haven't really had a chance to see if this is the best loan they could get. They don't have any information to compare it; it's not talked about in those terms. There's a limit on competition right there: Are you actually getting the best terms for your phone?

The other thing that's complicated is that the secondary market in devices is all locked. There are a lot of

people who might like affordable devices. Maybe they actually don't want the smart phone yet, or maybe they'd like to get the price advantage of using a smart phone and buy it on the secondary market because, actually, once all those people line up for the newest phone, a whole lot go up for sale. Sometimes the price variation—we've seen it on eBay as low as \$25 for the next-to-latest smart phone, and a lot of people would be quite happy with that if it were really easy to access the market.

There's not a lot of advertising of data plans where you don't take a phone loan. It doesn't happen very often.

Mr. Jim McDonell: In your review of the legislation, do you have any issues that you'd like to see addressed?

Mr. Ken Whitehurst: Well, of course, this legislation addresses the so-called postpaid market. Now, I don't know how you call it "postpaid" exactly when you've signed a term contract, but it's called the postpaid market. It hasn't really addressed the prepaid market. There are a lot of people who use cellphones on a prepaid basis because they don't have the credit necessary to get postpaid. They pay the absolute highest rates. Think about that: The people who put their cash down in advance pay the absolute highest rates. This didn't address that. I don't know that this bill is the appropriate place to address it, but it's a big and open issue.

1750

Mr. Jim McDonell: The bill now separates, or the legislation—the code separates your purchase price from your plan, so if you have a prepaid phone, then of course you don't have the phone that you're purchasing, so—

Mr. Ken Whitehurst: I'm sorry. We're not talking about a prepaid phone. We're talking about prepaid telecommunications. It's very important. We started with this culture of the \$3,500 suitcase cellphone, right? And even business wasn't going to take one if they didn't have a way to finance it, and they wanted an easy way to finance it. A great method was done to do that. The business grew—a wonderfully innovative move. We've got good telecommunications services. What we have are bad contracts.

The thing that—I'm sorry; I'm losing my train here a little bit. The problem we have is that really it's two different businesses now. You've got devices. Do you remember when we used to all have to pay for the telephone that was plugged in the wall and we had to lease it? We couldn't be trusted to plug in our own phone. We're kind of revisiting that issue, and we're actually revisiting it in an environment where soon lots of things are going to be connected to the wireless network, so there's a strong need to kind of separate those things.

The prepaid phone market are people who pay for cards to get access to the network. They may have come up with a phone however they came up with it. They—

The Chair (Mr. Grant Crack): Thank you. We'll just send it over to the NDP, if you would like to have him continue.

Mr. Jagmeet Singh: Sure. Did you want to finish your thought?

Mr. Ken Whitehurst: No, that's okay.

Mr. Jagmeet Singh: Okay. In terms of your position as an advocate for consumers, do you think it's important, I understand, to have provincial legislation as well as the federal legislation?

Mr. Ken Whitehurst: Well, the first thing is that we don't really know the final fate of what was a regulatory ruling. Let's be clear: It's not federal legislation; it's a regulatory ruling. We don't know about that. We do know that the CRTC tried to put a structure in place that clearly recognized that there was or could be provincial legislation on the books because they talked about the relationship between the code and the legislation. It was not our sense that this was intended to put the Legislatures of the provinces in the box. It was intended to get the good consumer protection, context-oriented, in force. That's the first thing.

We have a strong sense that it has been provincial initiatives also that have kept the providers being concerned about their customers. There isn't a lot of competition; there isn't. There's a lot of competition in complex contracts, but there's not a lot of actual, literal competition. There are two big networks. The incumbents are now so disenfranchised from the two big networks that they dropped out of the CWTA, so it's a very difficult situation. It's in flux. It's probably going to take some time.

Simply providing some protection, even if it's in the moment, even if we're talking about a five-year period, could be a very wise thing to do, because let's remember what we're talking about here. We're not talking about whether the industry has made a valuable contribution to Canadian society or whether they have fast networks. Their networks are faster than some and not faster than others. What we're talking about here are clear, comprehensible, fair contracts. That's what we're talking about. And we're talking about what is, on the telecom side, for sure, a commodity service, and people are being asked over the lease agreement on a device that might cost \$20—in actual cash, \$20; remember there have been throwaway cellphones—and it might cost \$900 right at the premium if you're buying the latest and greatest. In other words, you own the Maserati. But—

Mr. Jagmeet Singh: So just to get your opinion—

Mr. Ken Whitehurst: It's just ridiculous.

Mr. Jagmeet Singh: Do you agree with the idea of having provincial legislation? Do you think it's necessary?

Mr. Ken Whitehurst: Absolutely.

Mr. Jagmeet Singh: And in terms of the year-long pricing: Do you think the year-long pricing or just the full contract pricing would allow consumers to actually get a real comparison of how much of a benefit they're getting, if they're actually getting an inducement or if it's more like a loan and to be able to compare those with other countries?

Mr. Ken Whitehurst: Well, comparing them with other countries—

Mr. Jagmeet Singh: I mean other companies.

Mr. Ken Whitehurst: I think the first most important thing here, more than price shopping is understanding the commitment you're making and what it's actually going to cost you. That's what consumers need to be able to exercise their marketplace responsibility, and they're having a hard time with that now.

Mr. Jagmeet Singh: In your opinion, do consumers, from your vantage point, look at the contracts? Would they like to see their cost month to month? Or do you think it's more effective for them to see the entire duration of the contract, whether it's a two-year, a three-year or a four-year contract, or perhaps both?

Mr. Ken Whitehurst: At some level, they have to understand both because they need to know the monthly cash flow commitment and they need to know—call it the total cost of ownership. What consumers want and the one reason they're so confused with this whole environment is that they want to manage their budgets, and you have a really hard time. I don't know if any of you have negotiated a wireless contract. You have the conversation and at the end you still don't have any sense of what kind of commitment you're making.

Mr. Jagmeet Singh: Is there anything in the bill that you would like to see that you haven't seen? Any other sort of protection?

Mr. Ken Whitehurst: Well, I mentioned prepaid, but I don't know that this should be in this bill. The sense we have is that we have a bill that's about the right size for the environment. It needs to have some harmony with the federal initiatives. The federal government is beginning to understand how significant this is to Canadians and—

Mr. Jagmeet Singh: Can I just squeeze my last question in with the time? I know I'm probably just about to run out.

The Chair (Mr. Grant Crack): Thirty seconds.

Mr. Jagmeet Singh: There is an NDP federal initiative to stop the practice where cellphone companies charge you to get a paper bill. Some folks aren't able to use their computers, for whatever reasons, and if people opt into this because it's beneficial, there shouldn't be an immediate charge. What's your feeling about that on a long-term basis?

Mr. Ken Whitehurst: Well, we certainly prefer to see people incented to make these changes. Companies could share in the benefit of making the change. That seems like a positive thing to do. You know, if the shoe was on the other foot, I think most businesses would ask for that. They certainly do when they're making a request of government. So I think who doesn't like a win-win rather than a win-lose when you make an arrangement?

The Chair (Mr. Grant Crack): Okay. Thank you. We'll go to the government. Ms. Cansfield.

Mrs. Donna H. Cansfield: I have a question. One of the things that always used to annoy me was when I used to take a flight and I would check on that flight and it would be \$300 and then when you finally got the final price, it was \$500, and now that's changed fortunately. But do you see evidence of this within the wireless industry; that in all of their advertisements they don't include all of the prices?

Mr. Ken Whitehurst: I think there is a lot of trouble at the retail level. We are not in a position to judge what is method and what is a management problem, but there's a lot of trouble. People come away, after talking to sales representatives, service representatives or negotiating a contract and what they thought they heard is not what they heard or what was offered.

Maybe I'll offer a little personal anecdote. It's a very small thing. With my own cellphone contract, I was offered an incentive to merge my bills from a carrier—two bills, two separate services; an incentive to merge it. I was told, clear as day, that the incentive would be \$5 a month, but that it would take a while to appear on the bill. Well, a while passed, and it didn't appear on the bill.

So I called and I said, "Maybe I did something wrong in getting this set up," because it was kind of complicated to get the arrangement set up to start with. They said, "Well, we don't know what happened," and they bounced me back and forth, because there were two sides of one company. Back and forth I went, but I'm the executive director of the Consumers Council of Canada, so I am patient when I'm learning. So I spent the time, and I went back and forth and back and forth.

A lot of people would have said, over \$5, when they think about it that way—"Why would I spend this time?" Of course, \$5 adds up over time, doesn't it? So I persisted, and they finally said, "Well, we've got it all set up. It's all done for you, Mr. Whitehurst. We're sorry. We'll give you back credit on the time." I said, "That's wonderful. Thank you very much." A month later, my bill came in: \$4 a month.

Mrs. Donna H. Cansfield: How's your patience?

Mr. Ken Whitehurst: Well, I didn't call again. The story is almost worth more than the call again. Why did that happen? You've got me.

Mrs. Donna H. Cansfield: Bill 60 has very strong contract cancellation remedies in place. Do you think that they are stronger than what's being proposed for the national code changes?

Mr. Ken Whitehurst: Yes.

Mrs. Donna H. Cansfield: Good.

Mr. Vic Dhillon: What consumer protections are included in Bill 60 but are not included in the CRTC code?

Mr. Ken Whitehurst: I think that, on the face of it, you have a clearer termination, especially if someone owns their own phone. That didn't get talked about a lot. The culture so accepts the idea that you're just going to get your phone as part of a plan, but financing terms—even when you borrow, depending on who you are—may be better than having a lease. More people should probably be looking at that option.

Mr. Vic Dhillon: Do you think consumers are better served by having this type of protection at two levels of government?

Mr. Ken Whitehurst: We were very concerned from the beginning. If you were to look at our public statements, we were very concerned about having a patchwork, right? What I would say about this bill and what I

would say about how the wireless code seems to have evolved is that there is pretty good consistency.

You may find that it needs some fine-tuning. It may be that the Consumer Measures Committee that meets with all of the consumer protection leadership from the different provincial governments and the federal government may find some room to do some coordination over time, but it strikes me that, as we understand it, the legislation that was brought forward took into account the wireless code.

There was the benefit to have done that from a timing perspective, and given that there are a variety of challenges going on—some of it just heel-dragging—it probably

makes sense to provide Ontario consumers the same kind of protection that Quebec consumers have been enjoying. If there's a huge constitutional issue there, I don't know how many years it has been that the industry has decided to do nothing about it.

The Chair (Mr. Grant Crack): Okay. Time is up. I'd like to thank you, Mr. Whitehurst, for coming before the committee and providing us with your thoughts.

There being no further business, this committee will adjourn until such time as 2 p.m. on Monday, October 21. Enjoy your week in the riding. Thank you very much.

The committee adjourned at 1800.

CONTENTS

Wednesday 9 October 2013

Subcommittee report	G-273
Wireless Services Agreements Act, 2013, Bill 60, Ms. MacCharles / Loi de 2013 sur les conventions de services sans fil, projet de loi 60, Mme MacCharles	G-274
Ministry of Consumer Services.....	G-274
Mr. Giles Gherson	
Mr. Frank Denton	
Rogers Communications	G-278
Ms. Jan Innes	
Mr. Ken Engelhart	
Mr. Joshua Yarmus	
Canadian Wireless Telecommunications Association.....	G-282
Mr. Bernard Lord	
Mr. Devon Jacobs	
Mr. Kurt Eby	
Consumers Council of Canada.....	G-286
Mr. Ken Whitehurst	

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G-19

G-19

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Monday 21 October 2013

Journal des débats (Hansard)

Lundi 21 octobre 2013

Standing Committee on General Government

Wireless Services
Agreements Act, 2013

Comité permanent des affaires gouvernementales

Loi de 2013 sur les conventions
de services sans fil



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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Monday 21 October 2013

Lundi 21 octobre 2013

*The committee met at 1408 in committee room 2.*WIRELESS SERVICES
AGREEMENTS ACT, 2013LOI DE 2013 SUR LES CONVENTIONS
DE SERVICES SANS FIL

Consideration of the following bill:

Bill 60, An Act to strengthen consumer protection with respect to consumer agreements relating to wireless services accessed from a cellular phone, smart phone or any other similar mobile device / Projet de loi 60, Loi visant à mieux protéger les consommateurs en ce qui concerne les conventions de consommation portant sur les services sans fil accessibles au moyen d'un téléphone cellulaire, d'un téléphone intelligent ou de tout autre appareil mobile semblable.

The Chair (Mr. Grant Crack): Good afternoon, everyone. Members of the Clerk's office, legislative research, members of the government, opposition, third party, ladies and gentlemen, welcome to the Standing Committee on General Government. We're here for our second round of public consultations and deputations concerning Bill 60, An Act to strengthen consumer protection.

As the committee had previously discussed, presenters will have six minutes to present, and then each party will have eight minutes to ask questions and/or make comments. I would like to point out, prior to us beginning, to the members of the three parties that the deadline for amendments is tomorrow at noon for this particular bill, and that is as is set out in the orders from the House.

TELUS

The Chair (Mr. Grant Crack): Having said that, I would like to welcome, from Telus, Mr. Ian Bacque, director of government relations. Welcome, sir. Maybe what you could do is just reintroduce yourself for Hansard purposes, as well as the person accompanying you.

Ms. Andrea Wood: My name is Andrea Wood, and I'm the vice-president of legal services. Hello, everyone.

The Chair (Mr. Grant Crack): Welcome, Ms. Wood.

Mr. Ian Bacque: Thank you very much, Mr. Chairman, and good afternoon, everyone. Thank you for the opportunity to provide our comments on Bill 60. I'll

begin with a brief introduction of Telus and then outline our views on the bill.

Telus is a leading national telecommunications company, with 13.2 million connections with our customers, including 7.7 million wireless subscribers. Led by president and CEO Darren Entwistle since 2000, Telus has invested over \$24 billion in the province of Ontario in technology and operations during that same time period. Our network covers 99% of Ontarians, and the 4G LTE network currently covers 85%.

There are now over 8,000 Telus team members who live, work and serve in communities across Ontario. We embrace a "give where we live" and "customers first" philosophy, and are committed to exceptional client service. Telus SharePlus rate plans maintain our industry leading position on pricing transparency by making rate plans clear and simple.

This brings us to our comments on Bill 60, which is at slide 7. The page numbers may be a little difficult to see because of the colour of the font, but it's the slide with the whet owl that says "Wireless Regulation", beginning at that point.

MCS has been accessible and engaged with us, and we want to thank them for that, but we do have some outstanding concerns. Telecommunications is within federal jurisdiction, and we have a concern about the potential for a patchwork of different regulations. The CRTC wireless code does cover areas addressed in Bill 60. Ideally, there would be a single federal code to provide all Canadians with equal protection regardless of where they live. However, we are also here to address specific concerns with the bill if it is ultimately passed by the Legislature.

Our three key concerns, on slide 8, are (1) amendments within the term of the contract; (2) all-in price advertising; and (3) the scope of the act in section 3.

Amendments: Section 13 prohibits unilateral amendments to the contract by the carrier. The issue is that this could cover pay-per-use and optional services. The CRTC specifically addressed its mind to this and has asserted that no changes can be made unilaterally by the carrier to pricing that forms the agreement with the customer, and that pricing for PPU, pay-per-use, and optional services falls outside of the agreement. Again, the CRTC has explicitly directed that carriers should be permitted to amend non-key terms with notice to the

customer. This flexibility encourages innovation in services, and customers are protected.

In addition, a customer can cancel the contract at any time after 90 days, and the carrier must unlock the device. On slide 11, there's a good quote from the CRTC decision that details its reasons for taking this approach, noting that the customer has not committed to these services for the entire contract term. Based on discussions with MCS and some comments from some of you during last week's hearings, we are indeed hopeful that some clarity will be brought to this issue because a provincial law addressing exactly the same matter could simply not coexist with the wireless code. I should mention also, on amendments, that the wireless code requires uniformity of charges for all customers for the same services.

In terms of all-in pricing, the issue is that section 8 requires an all-in price to be the most prominent in an ad, but the challenge is that this is simply not how consumers think in terms of wireless rate plans; they think in terms of the monthly price. No other sector is required to advertise what is really a total contract cost, and this section will actually create confusion for consumers as opposed to reduce it. Remember that the consumer now has the right, under the wireless code, to cancel the contract at any time, making a total contract cost actually even less relevant to the customer. I would refer counsel to CRTC paragraph 326 of the decision that does say, in terms of the coexistence issue on this point as well, that no more rules regarding advertising would be brought in. Our marketing plans are national in scope, and this measure would drive costs for the business, and our request today is for this section to be removed.

The final point, application of the act: The issue with section 3 on application of the act is that it affects customers living in other provinces if the person engaging in the transaction with the customer is located in Ontario. If that customer is in a province with its own consumer protection legislation, there would be an obvious question about what rules would apply. Last week, I believe, in the transcript a committee member asked whether this could be an incentive for carriers to relocate call centre representatives, and it could certainly have that unfortunate effect. Hopefully, ministries can work on this issue and harmonize with the wireless code.

In closing, the second-to-last slide is not about our submissions on Bill 60, but it's to advise you of a new program launched by Telus called Telus WISE. It helps to keep families and children safe online and provides advice on a wide range of topics, including cyberbullying and keeping your digital footprint clean. More information can be found at telus.com/wisefinfo.

We want to thank you again for this important opportunity, and we look forward to any questions that you may have.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Bacque and Ms. Wood, for those words. We will start with the opposition. Mr. McDonell.

Mr. Jim McDonell: Thanks for coming out today. You talked a little bit about the closeness of the code and

the bill. Maybe you could just go over what issues or problems this would lead if you're forced to deal with two codes that are slightly different.

Ms. Andrea Wood: Well, the advertising issue is one that we have expressly addressed. Our advertising is national, and we are not required to disclose full-term pricing in our ads. If Ontario does what it's intending to do or appears to be intending to do, we could be required to incur costs by creating campaigns that are no more helpful to Ontario consumers but that increase our costs.

The bigger issue from our perspective relates to unilateral amendments, and that is an area where the conflict between Ontario's Bill 60 and the code could really be difficult for us to accommodate within our business practices.

Mr. Jim McDonell: So you're suggesting that the monthly cost is really what consumers are looking for and what the industry is already providing? So it would be an easy fix?

Ms. Andrea Wood: That's right, sir.

Mr. Jim McDonell: I know that there are some other issues that are in conflict. Sometimes you'll see differences like that, and especially a national code, will likely lead to court challenges or issues. Any major ones that you can think of in the bill so far? Basically, almost all of the things that are covered in this bill are covered to a greater extent in the code.

Ms. Andrea Wood: Well, again, the unilateral amendment provisions are very problematic from the carrier's perspective and conflict with the express finding of the CRTC on amendments of rates relating to pay-per-use and optional services.

Mr. Ian Bacque: If I could also add commentary and follow up on Andrea's comments regarding the regulation-making power for notifications, the CRTC, again, directed its mind to this issue and dealt with the issue by imposing usage caps—overage caps. I think you heard from Rogers a multi-million dollar figure about the costs that they have incurred to come into compliance. We have also assessed a very large cap ex requirement that we would have to make in order to comply with a companion notification provision. That would be duplicative, in our submission to you, and it could not coexist with the way the CRTC has dealt with it. It would require deployment of capital away from network improvements to compliance.

Mr. Jim McDonell: If I understand what you're talking about there, sometimes the thought is that for companies like Telus, Rogers or Bell, a large cost is not a big deal. But unfortunately, what we're trying to do is also encourage small providers, and they would have the same huge costs, which sometimes more competition will not be able to handle up front. Any comments to that? Really, what I think the bill is trying to get is competition, and having issues like that where—I think there's apps that could be promoted by the different manufacturers, which already exist, that measure the amount of traffic you have and could be made somewhat obvious, I guess, by the carriers—so just what's there.

Mr. Ian Bacque: Actually, if I could just clarify, we actually have an outstanding My Account app. My wife and my son are both Telus customers independent of my service, and the app allows you, in real time, to see your usage. If you have a smart phone, it's with a tap of your thumb that you see where you are. Now, our new plans are all unlimited Canadian calling and unlimited Canadian texting, but it allows you to keep an eye, for example, on your data usage in real time.

1420

What I was addressing specifically is the possibility that had been discussed in the past that the ministry would require advance notification in a proactive way. We're hoping that that app would bring us into compliance, if a regulation were brought in that required that advance notification. But if it was what's called a "push notification," so looking and seeing would not comply, and we actually have to communicate directly at that 80% or 90% threshold, the capital requirement is enormous.

Mr. Jim McDonell: Another one: When we talk about slight changes in the code, one of the benefits we have here in Ontario is, for the most part, certain regions have a bilingual workforce, and we would like to think that we can be a great location for a call centre. But I see your issues: people calling across provinces—if they're from a different province, what code do you have to follow?—and the confusion around that. It would likely be a big disincentive to set these centres up here.

Ms. Andrea Wood: That's exactly right, sir.

Mr. Jim McDonell: Any other priorities that you think are problematic with this legislation?

Ms. Andrea Wood: We've identified the three that we think are the big issues.

Mr. Jim McDonell: A lot of the services say there are slight differences with the national code, and we think that's problematic. So we'd like to, through our committee amendments, make some of those changes, to make them in line, because I've seen some cases—the code, in most cases, is actually more stringent, or is capable of doing things just because it's a national code and it's a federal responsibility, which gives them the ability to legislate where we don't, really, in Ontario.

Ms. Andrea Wood: And expertise as well on pricing and wireless. We appreciate that, sir. Thank you.

Mr. Jim McDonell: Thank you.

The Chair (Mr. Grant Crack): Thank you very much, Mr. McDonell. We'll move to the third party. Mr. Singh?

Mr. Jagmeet Singh: Thank you. Good afternoon. It's a pleasure to see you again.

If I can just touch briefly on the three points that you began with, you indicated that there are three areas of concerns: amendments within the term of the contract, all-in pricing and the scope of the act. Let's start with the scope-of-the-act issues. One of the issues that was mentioned I think just at the tail end here by my colleague Mr. McDonell was about extraterritorial issues if you're calling from a different jurisdiction into this jurisdiction

and how it would work. Just a simple workaround, and tell me if this would work: if there was clarity that the consumer's place of residence would determine the applicable law. Would that help, would that assist, just clarifying that the consumer's own address, place of residence, where they use their phone, where their billing address is, language of that sort, would be a workaround that you would see that would address that inconsistency?

Ms. Andrea Wood: Yes, sir. The fix that we thought might be a constructive one is changing the words "person engaging in the transaction with the consumer is located" to "resides." So a simple fix, and one based on the principle that you articulated.

Mr. Jagmeet Singh: Okay. With the all-in pricing, that's something that—correct me if I'm wrong, but Quebec has different consumer protection laws that aren't consistent with the CRTC, so you have, I guess, a test case of having provincial legislation and a federal code coexisting. In Quebec, in terms of the pricing, is there a similar situation where there is a requirement to price that's different from your national campaign?

Ms. Andrea Wood: Relating to amendments of pricing?

Mr. Jagmeet Singh: No, just the pricing—the issue of—

Ms. Andrea Wood: The pricing in ads?

Mr. Jagmeet Singh: Yes, pricing in ads.

Ms. Andrea Wood: No. To my knowledge, there is no requirement in the Quebec legislation that we disclose the full cost of the contract during the entire term.

Mr. Jagmeet Singh: Okay. I guess the only complaint or the only real barrier—well, there are two parts to it. One is, your issue is that there will be an additional cost to that. The second is that it would create a lack of clarity in terms of what the consumer is getting into. I can see the cost issue. There would be an additional, separate campaign that you would have to work out for Ontario that's separate from the national campaign. But in terms of the clarity, what is your position on how that would be less clear, or am I misunderstanding your position? It's not that it's less clear—

Mr. Ian Bacque: I think it would be less clear because consumers are really just not used to looking at wireless pricing from a total contract cost perspective. The analogy I might use is that the ministry itself has placed an all-in pricing requirement in the retail automobile business—only on dealers, not on manufacturers, which has created a little bit of confusion of its own. But it requires that things that used to be called hidden fees, things that you didn't see—which we don't engage in ourselves at all—it requires freight and things like that to be included in the price.

You can imagine if you saw an ad that said, "Lease this nice motor vehicle for \$1,000 a month," and you suddenly made that industry say, "Lease this motor vehicle for \$48,000." It would be sort of eye-popping, and it would create confusion, so a monthly all-in price that's clear and simple, like we're already engaged in, is

obviously something that we would come into immediate compliance with, because we're already there. A total contract cost or a life-of-contract cost is somewhat confusing, and it's unnecessary, as I said, because you can get out of it anyway, at any time.

Mr. Jagmeet Singh: This point was brought up, and I just want to go into some more depth on it. You mentioned the issue surrounding notification of minutes, maybe overage or data overage. There's a certain cost associated with either a push system, where it's sent to the consumer's phone, or maybe a more or less active form of notification. In my understanding, the infrastructure already exists—if I'm wrong, please clarify—to provide the notification. What would be the cost of creating notifications where the consumer is aware that they're going over and having to send some sort of active expression that they understand that they're going over and that that would entail further costs? What would be the costs associated with that if that's something we're contemplating, and what would be an alternative workaround to provide that notification that wouldn't be as costly, in your mind?

Mr. Ian Bacque: The notification on data does exist, but the notification on voice—in previous iterations of the bill, that would have imposed the requirement on all contracts in the province of Ontario, not a prospective bill. Our price plans now all include unlimited calling and texting within Canada, so it wouldn't require a change for those customers, because we wouldn't have to be pushing notification to them. But in past versions of the bill, it was comprehensive for voice, text and data for all existing contracts. That was the real challenge when the large capital investment number was determined. I'm not in a position to answer the dollar figure amount for a number of reasons. Sorry.

Mr. Jagmeet Singh: Okay. The first issue that you raised with the amendments—that's something that I understand is currently in place in Quebec, where there has to be an agreement by the consumer before any contract change can be made. Am I correct, first of all, with that?

Ms. Andrea Wood: I'm not certain that that applies with respect to the services that we're describing, optional services and pay-per-use services.

Mr. Jagmeet Singh: My understanding is that it was. The analogy that was brought up by a previous deputation, unless I'm mistaken, was that while in Ontario, if you are travelling abroad and you were to be transitioned to a data plan, automatically an international data plan, you would simply be notified that you had been automatically put into this international data plan. But the issue is then, if this bill was passed, you couldn't be automatically transitioned to a plan. Even if it was cheaper, you would still have to ask the consumer for permission, and they would have to click on a button saying, "Yes, I agree," and then it would work. That's what currently exists in Quebec, I understand.

Ms. Andrea Wood: Yes. I agree with you on that. Sorry, I misunderstood your question.

Mr. Jagmeet Singh: Has there been any difficulty—using Quebec as a test case—with that system? Has that not worked? Have you received any complaints in Quebec? Has that been a success or a failure or something in between in Quebec?

1430

Mr. Ian Bacque: I know that one of the reasons the CRTC exempted pay-per-use and optional services from the unilateral amendment provision was because, in Quebec, carriers were having to say, "We would like to give you something of benefit to you that does not increase your burden, but we're not allowed to by Quebec law." I think you heard that, as you mentioned, from the other delegation.

Mr. Jagmeet Singh: Right.

Mr. Ian Bacque: In terms of this bill, we've reviewed it in detail and we're actually fairly satisfied that section 13, subsection (13), addresses that for amendments to the contract, which we're, as I mentioned, hoping is interpreted—and this does need to be clarified in our submission—but only goes to the basic rate plan. So if we wanted to add something to your existing rate plan, not PPU and not optional services, that was of benefit to you, we believe under this bill we are allowed to do that, without—

Mr. Jagmeet Singh: Okay.

Mr. Ian Bacque: Most customers won't object strenuously to getting something good, right?

Mr. Jagmeet Singh: Right, right.

The Chair (Mr. Grant Crack): Okay. Thank you very much, Mr. Singh.

Mr. Jagmeet Singh: Thanks.

The Chair (Mr. Grant Crack): We'll move to the government side.

Mr. Vic Dhillon: Thank you very much for your presentation. How well do you feel that your customers understand the monthly costs of their cellphone use, especially when considering usage limits and cancellation fees and other fees?

Mr. Ian Bacque: I think, now, very well. The move some time ago to our "clear and simple" pricing model and our new SharePlus plans—it's very easy to understand: unlimited calling in Canada, unlimited texting in Canada. Really, the big decision that you make as a customer when you sign up with Telus is from a simple chart. How much data will you consume? Here's a corresponding cost. So I think now the agreements are very fair and transparent and understandable.

Mr. Vic Dhillon: So why would all-in pricing be—you stated that it would only confuse your customers. If they already understand, why would that be confusing?

Mr. Ian Bacque: An all-in monthly price would not confuse them, just so—I'm sorry if I wasn't clear on that. An all-in monthly price, so \$45 for unlimited calling, unlimited texting and a certain amount of data, a certain number of megabytes of data—that is actually advertising that we currently do and that wouldn't confuse the marketplace at all.

What would be confusing is that, in Bill 60, it requires carriers to multiply the monthly cost in the new world by

24, and so you would have a \$1,200 advertised price, possibly, plus the device. I think a lot of people would be saying, “This has gotten so expensive; what’s going on?” They might even think it’s that much per month, so I think that would cause a lot of confusion in the marketplace. When people are used to working on their monthly budget and they see an advertised price and they know that they can afford that advertised price, multiplying it by 24—because that’s the total contract cost required by section 8 of Bill 60—would create this almost shockingly large number.

Mr. Vic Dhillon: Now, the CRTC has stated that they’re open to working with the model alongside the provincial legislation and applying them both. So why would you object to that? Why do you think that we don’t need provincial legislation in different jurisdictions along with the CRTC code?

Mr. Ian Bacque: With respect to the advertising provision in particular or just in general?

Mr. Vic Dhillon: In general.

Mr. Ian Bacque: Well, in general, the CRTC has exerted its influence and has occupied the space in so many key areas of the telecommunications business model and our relationship with our customers that, to be honest, there’s very little room for provincial governments to occupy space that does not conflict with the federal provisions. If they occupy the same space, even if they say slightly different things, the CRTC has actually said that those cannot coexist. It has to be something that they have not exerted any jurisdiction over whatsoever.

The Chair (Mr. Grant Crack): Ms. Damerla?

Ms. Dipika Damerla: Ian and Andrea, thank you so much for coming. I just had a quick question. I was looking at your example here, which is on the all-in pricing. The difference that I see in the way you are presenting it is that \$45 isn’t the all-in price, because it’s actually \$47 a month. That would be the all-in price if you divided the \$45 down payment or whatever you want to call it for the phone.

I’m just wondering, would you be open to that sort of thing, where on a monthly basis you also build in the price that somebody is paying? Because that’s what we are really trying to capture, is the fact that it really isn’t \$45 a month. It’s more than that, because there is the cost for the equipment.

I’m in the market for a cellphone right now, and I can tell you it’s very, very confusing for me. I’m looking for a Samsung, for instance; the same phone is a hundred bucks, but the plan might be 30 bucks a month. At another place, the phone is zero dollars, but you get more data. It is confusing the way it is now, and to have something that can allow me to compare apples to apples would make it easier. Your thoughts on that?

Mr. Ian Bacque: Well, we actually make it very clear in the customer service agreement and in the online app that I was describing. With the touch of a button, every month you can see your device balance, so you know in real time the outstanding subsidy on that device, and it’s disclosed very clearly in the contract when you sign up—

the price that you’re paying for the device and the remaining balance.

What we’re really selling is access to our network, and we are fairly, transparently and in an all-in-price fashion currently advertising the cost of accessing that network for our services.

Ms. Dipika Damerla: But my question is, do you see the difference, that the all-in price on a monthly basis is actually \$47 a month, not \$45? That’s the rub of the issue.

Ms. Andrea Wood: I know you’re focused on the example that we have given. The advertising that is described in the example is actually the amount that you would be spending. You would be paying \$49 up front for your handset and then subsequently paying \$45 a month. We think that’s clear, because it gives you a clear picture of what’s expected from you when you come to us to become a Telus customer and then what you need to plan for in your monthly budget. The \$45 is actually the amount that you will be paying from your monthly budget going forward, once you’ve paid the \$49 for the handset.

Ms. Dipika Damerla: I guess we’re saying the same thing. I’m just saying that we are trying to capture that cost all together. That’s the whole idea of the all-in pricing, so while I see your point about having the different advertising campaign, I was just trying to make the point that the reason behind—whether you do it annualized or monthly, the idea was to capture the entire cost and not break it into “This is the cost for hardware, and this is the ongoing cost for airtime.”

Ms. Andrea Wood: I guess you have to ask yourself what really helps consumers with their budgeting and their financial planning. Perhaps this is an area where our view is that understanding what is required of them on day 1 when they pay for the handset and then what is required of them monthly thereafter is the clearest and easiest for them to support their financial planning.

Ms. Dipika Damerla: All right. How much time do I have?

The Chair (Mr. Grant Crack): Ten seconds.

Ms. Dipika Damerla: Ten seconds? Well, thank you so much.

The Chair (Mr. Grant Crack): Mr. Bacque and Ms. Wood, thank you very much for coming forward. It’s been very informative. I wish you all the best. Thank you.

Mr. Ian Bacque: Thank you.

Ms. Andrea Wood: Thank you very much.

DIVERSITYCANADA FOUNDATION
NATIONAL PENSIONERS AND SENIOR
CITIZENS FEDERATION

The Chair (Mr. Grant Crack): DiversityCanada Foundation is our next presenter. I’d like to welcome Celia Sankar. We’ll let you take the floor and perhaps introduce those accompanying you. We welcome all three of you.

1440

Ms. Celia Sankar: Good afternoon. I am Celia Sankar, director of the DiversityCanada Foundation, and I thank the committee for the opportunity to comment on Bill 60. With me, to my left, is Mr. Ray Kindiak, the legal counsel for DiversityCanada. With me as well is Mr. John Gatens, first vice-president of the National Pensioners and Senior Citizens Federation. Ray will commence our presentation.

Mr. Ray Kindiak: Thank you, Celia. Established in 2004, DiversityCanada is a not-for-profit organization based in Elliot Lake that works to protect the rights and promote the interests of the disadvantaged, the vulnerable and the marginalized.

We are here today to ask you to protect the most vulnerable sector of the wireless market—that is, prepaid wireless consumers—and you can do this by stating unequivocally that Ontario's consumer protection legislation, which bans expiry dates on cash balances, also applies to the cash balances of prepaid wireless consumers.

This past June, the CRTC issued its wireless code, which included a section that endorsed expiry dates on prepaid wireless accounts. DiversityCanada has challenged the CRTC's decision. On its own behalf and on behalf of the pensioners' federation, DiversityCanada has asked that the CRTC review and rescind this section of the code. We feel confident that the CRTC will reverse that section of its decision, which we argued was incorrect and unreasonable, results in unjust enrichment of the wireless services providers, and is contrary to the Telecommunications Act.

DiversityCanada applauds the move by the Ontario Legislature to ensure that consumers in this province have adequate protection with respect to their agreements for wireless services.

Bill 60, as it stands, however, does not make any specific mention of prepaid wireless service agreements, nor does the Consumer Protection Act. In the absence of such a statement, consumers are forced to resort to the courts to assert the rights that they are entitled to.

Ms. Celia Sankar: In my personal capacity as a consumer, I have launched a class action lawsuit against Bell Mobility, which was certified by the Ontario Superior Court earlier this month. Any statements I make today are my own and are not intended to bind the class, by the way.

In our claim, prepaid wireless consumers assert that the cash balances in our accounts are protected under the gift card regulations of the Ontario Consumer Protection Act. However, taking legal action is time-consuming and costly, and this also puts an unnecessary burden on the judicial system.

Mr. Ray Kindiak: Going forward, this can be avoided by an unequivocal statement in Bill 60 that underscores that the gift card regulations apply to wireless services agreements.

Ontario consumers were thankful to their elected representatives when the law was passed to protect the cash

balances of prepaid purchase cards. There is simply no justification for prepaid, pay-per-use agreements for wireless services being treated differently to prepaid purchase agreements in all other sectors in Ontario.

Thank you. Now I pass you over to John.

Mr. John Gatens: Thank you very much. I thank all of you for allowing us to sit in and have a voice at this hearing. I do represent the National Pensioners and Senior Citizens Federation, and I must say, first of all, that we are absolutely in agreement with my colleagues to the left.

The National Pensioners and Senior Citizens Federation is pleased to submit these comments to the hearing on Bill 60, the Wireless Services Agreements Act, 2013. Established in 1945 and incorporated in 1954, the National Pensioners and Senior Citizens Federation is a democratic, non-partisan, non-sectarian organization composed of 350 seniors' chapters and clubs across Canada, with a collective membership of more than one million Canadian seniors and retired workers who have an interest in the outcome of these proceedings.

Prepaid wireless services are used by a significant number of pensioners and senior citizens because it appears to be the least expensive and most convenient way for them to acquire mobile services. For pensioners on fixed incomes, every dollar counts. This is why they choose prepaid, pay-per-use offerings, which, according to the way they are promoted, appear to be an economical manner to use mobile services.

Under this business model, the cellphone companies promise that consumers can place funds into their accounts and decide what to spend it on. It is not right that pensioners or any other consumers are told after a period of time that their cash has expired and that they must forfeit their unused funds to the wireless service providers.

This practice causes enormous economic harm to pensioners. First, the pensioners are made to pay for more services than they actually need. By stating that a cash balance will expire if it is not topped up, the wireless service providers force consumers to continually purchase more top-ups, even if they already have enough funds in their account for any services they may use or wish to use.

After only a year after acquiring a prepaid, pay-per-use cellphone, a pensioner may have as much as \$100 in cash in his or her prepaid wireless account. Obviously, after a few years, account balances can be quite substantial. These funds could have been put to much better use for goods and services that pensioners actually need, such as health care or home heating, for example.

Second, not only do pensioners unnecessarily have to spend these funds; under the practice of prepaid wireless balance expiry, they unnecessarily lose these funds. Even if a pensioner has faithfully topped up on every expiry date in the past, if any circumstance causes him or her to miss just one top-up, the wireless provider will seize all the funds in that account. In this way, pensioners have lost hundreds of dollars individually and millions of dollars collectively. This just isn't right.

National Pensioners, therefore, urges members of this Legislative Assembly to enact legislation that will protect pensioners and senior citizens from this unacceptable situation whereby their cash balances are confiscated by wireless services providers on purported expiry dates.

The Chair (Mr. Grant Crack): Thank you very much. We'll go to Mr. Singh, from the third party.

Mr. Jagmeet Singh: First and foremost, I want to thank you all for taking the time to be here and for raising this issue.

I have a couple of questions. One is that I think this is a significant issue. I didn't turn my mind to it, so I thank you for raising it. I'm curious—and not in a bad way, just out of curiosity—why this has been identified as an issue for pensioners specifically, and why it has come to light through that avenue. I think this is just an issue that would affect, really, all consumers, so it's going to be an issue. What about the prepaid type of product triggered pensioners or folks of that background to pay attention to it?

Mr. John Gatens: From my own point of view, once one becomes a pensioner and you're on a fixed income, let me tell you, very, very much every penny counts.

I guess what's happening today is that the access to regular telephones, especially when you go out of the main big areas—cities, towns etc.—becomes more difficult. We've found that seniors are forced to adopt the modern type of contact, and that's cellphones.

They're expensive enough, by the way, when you're on a fixed income. You might think it's a very reasonable expense, but quite frankly, on a fixed income it's quite high and quite costly.

Anything that is taken away from that or reduced in any way whatsoever affects seniors, and it definitely affects them. We speak to seniors from one end of the country to the other. We just came out of our convention, where seniors came from each and every province. They let us know, directly and indirectly, how they feel about these kinds of things.

Mr. Jagmeet Singh: Okay. And my two questions that I want to make sure that I—one is just back on the same point: Why do you find pensioners or seniors are using the prepaid phone? The second question, just so it's out there, so you can answer whenever you're ready: Do you have a proposal for what type of amendment you'd like to see in the act, just something that would copy the gift card—if you have an exact language for it, you can tell it to us now and also submit it. That way, we can help get it in.

Go ahead with both questions—

Mr. John Gatens: I believe that my colleagues certainly presented an alternative to that, using the consumers' gift card issue as an example as to where it should never run out. We should never run out of the value of the goods or services that are promised on that card. Quite frankly, that would satisfy us; there's no question about it. In regard—

Mr. Jagmeet Singh: Why do seniors use prepaid cards?

1450

Mr. John Gatens: Because I do believe that, if it isn't in practice, it's seen as the easier, the better way or the more economical way. It certainly appears that way, until the end of the day, when they find out, whether they've forgotten or not—and they do tend to forget—and they run out of time or opportunity and, lo and behold, they've lost that money—actually, the money they've put out for that.

Mr. Jagmeet Singh: Ms. Sankar, I think you were about to add.

Ms. Celia Sankar: Yes. John did quite well in encapsulating that idea of why seniors choose the prepaid cards, prepaid wireless services: because it's the least expensive. Whereas a monthly plan may be something like \$45 per month, prepaid top-up would be—there are some as low as \$10 per month. For someone on a very limited budget, that's the first choice. Seniors, of course, are on fixed incomes.

In terms of the specific addition to Bill 60, we can provide exact wording. We'd be happy to supply that. But the idea is simply to include a statement which says that prepaid wireless services or wireless services—the gift card regulations apply to wireless services.

Right now, wireless services providers try to act as though they are exempted from that, and they're conducting themselves in a way as if they should be exempt from that. We would like to have a clear and definitive statement in Bill 60 that we already assert as consumers that we have that protection—that's what the class action lawsuit says. We would like, going forward, that Bill 60 would make that clear statement that all suppliers in Ontario, when they offer future performance agreements or gift cards, let's say—a popular term for them—are not allowed to charge fees for these cards and they're only allowed to deduct funds when the consumers actually make purchases.

Mr. Jagmeet Singh: And so, just to encapsulate some of the concerns, one is that if you don't top up at the right time or right intervals, you lose the amount of whatever money that you had in the prepaid service. The second is that if, for whatever reason, it expires or if you don't do the top-up, the unjust enrichment is that the money flows back to the wireless provider and the individual, the consumer, doesn't get it. Am I covering the main issues?

Ms. Celia Sankar: Yes. We've handed out some exhibits which show the actual prepaid cards, the top-up cards, and included in that, in the handouts, there are also screen shots from phones. These are messages that are sent to consumers as to what their account balance would be at any particular time. There's one as well from Virgin Mobile that says, in the second bank of comments, "Your cash balance of \$58.60 will expire."

This is clear. The communication from the wireless providers to the consumers is clear that we're dealing with cash balances. The gift card regulations protect the cash balances. Your cash cannot expire, and the cellphone providers have been trying to evade that legislation.

Mr. Jagmeet Singh: Okay. Just to give you a bit of a time frame—sorry to put this on you—our amendments have to be in by tomorrow. So if you can give us—

Ms. Celia Sankar: We will comply with that.

Mr. Jagmeet Singh: Yes. If you could give us the language that you'd like by today, so that we can ensure that we get it to the legislative—

Ms. Celia Sankar: Absolutely, we will be happy to provide that.

Mr. Jagmeet Singh: I'd be interested in looking at that, so if you could send that to us as soon as possible.

Ms. Celia Sankar: Yes.

Mr. Jagmeet Singh: Any other questions? Thank you.

The Chair (Mr. Grant Crack): Thank you, Mr.—

Mr. Jagmeet Singh: Is there anything else you'd like to add? How much time do we have left?

The Chair (Mr. Grant Crack): You've got 44 seconds.

Mr. Jagmeet Singh: Okay. Well, just thank you so much for being here.

Interjections.

The Chair (Mr. Grant Crack): Thank you, Mr. Singh. We'll move to Mr. Dhillon from the government side.

Mr. Vic Dhillon: Thank you for appearing before the committee today. Bill 60, with its strong cancellation remedies and a clear message of the consumers' rights to get timely refunds—how do you feel that will help consumers?

Ms. Celia Sankar: Our major focus is on prepaid wireless consumers and we believe that Bill 60 is an excellent piece of legislation. However, the absence of specific mention of our primary concern, which is the prepaid account balance expiry, the absence of specific language on that, forces consumers into the courts to assert the rights they already have. This is costly for consumers, and it's costly for taxpayers because it's a burden on the justice system.

It's absolutely necessary for the Legislature to take advantage of this opportunity to ensure that we don't have to go through that costly, time-consuming process to assert our rights, that they are clearly stated in Bill 60.

Mr. Vic Dhillon: Does your organization believe that the consumer is better protected by having two levels of legislation, one at the national and one at the provincial level?

Ms. Celia Sankar: During the wireless court proceeding before the CRTC, Quebec stood up and asserted its jurisdiction over consumer protection matters. There were some court cases such as MuchMusic—in the handout I do cite those court cases involving MuchMusic and Whistler Cable Television and Rogers cable TV, in which the courts stated quite clearly that where there are matters that are not specific to telecom regulations or broadcast regulations but where they deal with pure contract matters—private law—then the CRTC does not have jurisdiction. This would appear to substantiate the position of Quebec that the CRTC may have its wireless

code, but the provinces have jurisdiction over consumer contract matters.

It would be a great tragedy if any province were to be scared off by the statement by the CRTC that its wireless code prevails if there's a conflict between the two. For that reason, the consumers in Ontario look forward to this Legislative Assembly robustly protecting consumers through Bill 60.

Mr. Vic Dhillon: Thank you. I believe my colleague has a question.

Mrs. Donna H. Cansfield: Thank you for your presentation. In particular, I guess maybe because I'm a senior, you hit home. I have a very large constituency of seniors and consistently all of the questions are around the issues of income and how they are able to use their income to their best advantage. To think that they'd have to prepay and then if they don't use it, they lose it, is actually a little unconscionable to me.

What I would like to ask you to do—if you haven't considered it already, how would you address this through an amendment to this bill?

Ms. Celia Sankar: Yes, we'd be quite happy to supply exact wording and we'll do that immediately after. Before the end of the day, we will send to the Clerk our—

Mrs. Donna H. Cansfield: Thank you very much. I would be very interested to be able to see that type of an amendment. Part of our responsibility is to protect consumers and to be able to provide best practices in that process. Certainly, when you look at the amount of money—because you're right, they're not going to necessarily—I remember when I gave my daughter a phone, it was to use it in an emergency, not expect she's going to use it every day. It was, "When you have an emergency, honey, give me a call." Yet to think that I had to prepay for that and if she didn't call, I lost that money—there's something fundamentally wrong with that. Even in a capitalist society, there's something fundamentally wrong with that.

So I look forward to your amendment.

Ms. Celia Sankar: Yes, we will.

1500

Mr. Ray Kindiak: If I may add, as with all legislation, sometimes there's some lack of clarity, and given, of course, the burgeoning of the entire wireless sector, this makes it more relevant to have clarity related to this current bill, as it would basically apply to the consumer protection legislation that's existing already. So the legislation is there; we just have to tie it together.

Mrs. Donna H. Cansfield: If you're going to add some clarity, even just figuring out the bill would help, because it is complicated. Then, of course, when you phone to get someone, it's "Touch 1," "Touch 2," and when you touch 2, it's "Touch 1" again, and you go through this litany. It would be nice occasionally to talk to a human being as opposed to trying to deal with—and it's very, very frustrating for seniors; it's just a process they're not used to going through. Then, of course, the

assumption is that everybody has a computer, and it's a really poor assumption to make.

The Chair (Mr. Grant Crack): Thank you very much. We will move to Mr. McDonell, from the opposition.

Mr. Jim McDonell: Thank you for coming. Just to understand that prepaid plan today, the top-ups are only required if there's not enough money on it for the next month? How does that—I see expiry dates here, and you have a substantial amount of money on the card.

Ms. Celia Sankar: If I understood, your question is how does the top-up work if you have a \$50 card?

Mr. Jim McDonell: Yes.

Ms. Celia Sankar: Different providers have different amounts. Generally, the lowest amount—some say it's \$10 and others have a \$15 amount. You purchase the card and that amount, they say, you can use within a 30-day period. If you do not use all of the funds you have deposited into your account to make calls, send text messages, buy games, apps etc.—if you don't use up all of that in the 30 days—then one of two things can happen. On the 30th or 31st day, they will claim all of the amount as their own. They confiscate your funds.

However, if you top up before—let's say you top up on the afternoon of the 30th day—then whatever was remaining there will be carried over into the next 30-day period that you would have created by topping up a subsequent time.

Mr. Jim McDonell: Is that only when there's not enough money to pay for the next month's service?

Ms. Celia Sankar: It's always up to the consumer, so if you—

Mr. Jim McDonell: An example: If it's a \$50 card and you're using it and you're down to \$45 but the next month is worth \$10, then would it continue on until that card is out or until you don't have enough money to pay for the service amount?

Ms. Celia Sankar: How it works is that it's always up to the consumer. If you buy a 30-day card, a card that has that purported expiry date on the 30th day, then you either use all of your funds—if you use all of it by day 20, then you have nothing more to use for the other 10 days. If, on the 30th day, you have funds remaining, you top up and you can continue to use those funds plus the new funds or, if you don't top up, the company is going to confiscate whatever you have remaining.

Mr. Jim McDonell: I haven't your amendment here, but would it be reasonable to assume—because the company has to keep your account open and your number—that there's a time frame that they would be required to keep that account there. I'm assuming that if you have a phone, you're going to try to use it every month. You might miss the odd month but—

Ms. Celia Sankar: Yes, that's a very good and interesting question. There are different models used in the market. For instance, Mobilicity has a system whereby if you don't top up and you have a zero balance for 90 days, then you lose your phone number but you don't lose your account. If you have a zero balance, you'd lose

that. As well, if you had funds on your account—let's say you had \$10 remaining—but you did not use your phone, you didn't top up, you didn't appear at all, they won't confiscate your funds. Your funds will always remain there, but you'd lose your phone number.

The incumbents, the big three, operate in a different way. They confiscate your funds and they re-harvest the phone number as well. But Mobilicity, by its business model, has shown that it is not necessary to confiscate the funds in a consumer's account in order to re-harvest the phone numbers.

Mr. Jim McDonell: I'm just wondering if there's a solution here, because I realize there's a second phone, or a phone a senior may have. They may not want to use the phone because it is expensive. It is an extra charge. There needs to be some system where you could keep the phone, use it in emergency, but to be fair to the supplier, if you're going to keep the account, keep the phone number available for the few times they use it. There's probably a monthly fee that's required to maintain that, whatever that may be.

Ms. Celia Sankar: Well, again, these are very important points. There are several issues here. Maintaining the phone number, or keeping the phone number available for use, is completely separate to the issue of maintaining the cash balance in an account.

The way the system is operated here in Canada by Mobilicity and also Public Mobile: You can maintain whatever cash is in the balance, and you can re-harvest the phone numbers. The two do not have to be linked. Outside of Canada, in the European Union, this is how the system operates as well.

People who are not using their phones would lose the phone number, but whatever cash balance remains in their account remains there forever. When you want to use those funds again, you go back to the wireless provider and you get a new phone number, and you can continue to use the cash balance. So preventing or prohibiting the expiry dates on prepaid cash balances will not affect the availability of phone numbers for use in the system.

Mr. Jim McDonell: And I guess where I'm coming in from is, I appreciate that money should not run out of an account, but if you have a plan where there's a fee that belongs to the system, maybe \$5 or \$10 a month, that would continually happen and eventually run your card out.

Ms. Celia Sankar: Okay. Again, I'm glad we're getting into this, because there are two points here. First, if we go back into the Bill 60—

Mr. Jim McDonell: I'm just kind of wondering two things. Is that an acceptable solution, to have that in place? I mean, no question, the money should continue on. But if you're going to have the phone and belong to the system, there's usually a charge, minimal, at that, but it's something that would use it up. And when that money is used up, then there should be an allowance for a time, not forever, but to keep your number as well, because people do like to keep their numbers.

Ms. Celia Sankar: Okay. Thank you very much for that question. If we go back to Bill 60, and to the legislation that's already on the books, DiversityCanada is saying that there's already legislation that covers this entire situation, and the gift card regulation—that piece of legislation—says that there can be no fees applied to future performance agreements. This is what prepaid wireless service is: a future performance agreement. No other retailer, no other supplier is allowed to charge any fee for having a gift card, or a credit, electronic credit or whatever form that future performance takes for recording the amount. So they are not supposed to charge any fee under the current legislation.

The other side, the other point on that question, is that we had an expert—one of the leading North American experts—during the CRTC hearings testify on behalf of DiversityCanada. He was able to go through the figures and show that it's actually pennies per day, per month, in terms of the cost of maintaining a consumer account on the wireless system.

So in terms of there being any great cost to be recovered, that's yet to be seen. In fact, DiversityCanada has asked the CRTC to use its powers to demand that cost information of the wireless providers. We have asked for them to provide the precise cost for maintaining a prepaid wireless account. Then we would look at that and see whether account balance expiry can be justified on that basis of cost recovery.

One final point on that: When you have prepaid wireless balance expiry, a customer may have as much as \$500 on their account. The wireless provider would take that entire balance, even if it were for a year.

Mr. Jim McDonell: I don't disagree with that. That's a good point.

Ms. Celia Sankar: Yes.

Mr. Jim McDonell: I don't disagree. I was just wondering about maintaining the plan.

Ms. Celia Sankar: But does \$500 to maintain 30 days on a prepaid wireless plan seem justifiable or reasonable?

The Chair (Mr. Grant Crack): Okay. Thank you very much. Very informative. As well, thanks to the members of the three parties.

Ms. Celia Sankar: Thank you.

The Chair (Mr. Grant Crack): You're welcome. There was a request made by a member for an amendment. I would ask that the amendment and the wording come to the Clerk so that she can distribute it to the three different parties. That would be much appreciated.

Ms. Celia Sankar: I just want to say thank you for the opportunity. We, as consumers, appreciate the opportunity to make input to this proceeding.

The Chair (Mr. Grant Crack): On behalf of the committee, you're very welcome. Thank you very much.

There being no further business, this meeting is adjourned.

The committee adjourned at 1511.

CONTENTS

Monday 21 October 2013

Wireless Services Agreements Act, 2013, Bill 60, Ms. MacCharles / Loi de 2013 sur les conventions de services sans fil, projet de loi 60, Mme MacCharles	G-291
Telus.....	G-291
Ms. Andrea Wood	
Mr. Ian Bacque	
DiversityCanada Foundation; National Pensioners and Senior Citizens Federation.....	G-295
Ms. Celia Sankar	
Mr. Ray Kindiak	
Mr. John Gatens	

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of Ontario**

Second Session, 40th Parliament

**Assemblée législative
de l'Ontario**

Deuxième session, 40^e législature

**Official Report
of Debates
(Hansard)**

Wednesday 23 October 2013

**Journal
des débats
(Hansard)**

Mercredi 23 octobre 2013

**Standing Committee on
General Government**

Wireless Services
Agreements Act, 2013

**Comité permanent des
affaires gouvernementales**

Loi de 2013 sur les conventions
de services sans fil



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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Wednesday 23 October 2013

Mercredi 23 octobre 2013

*The committee met at 1607 in committee room 2.*WIRELESS SERVICES
AGREEMENTS ACT, 2013LOI DE 2013 SUR LES CONVENTIONS
DE SERVICES SANS FIL

Consideration of the following bill:

Bill 60, An Act to strengthen consumer protection with respect to consumer agreements relating to wireless services accessed from a cellular phone, smart phone or any other similar mobile device / Projet de loi 60, Loi visant à mieux protéger les consommateurs en ce qui concerne les conventions de consommation portant sur les services sans fil accessibles au moyen d'un téléphone cellulaire, d'un téléphone intelligent ou de tout autre appareil mobile semblable.

The Chair (Mr. Grant Crack): I'd like to call the meeting of general government to order. I'd like to welcome all members of the committee. We're here today to deal with the clause-by-clause consideration of Bill 60, An Act to strengthen consumer protection with respect to consumer agreements relating to wireless services accessed from a cellular phone, smart phone or any other similar mobile device.

As the committee is well aware, the deadline for amendments was noon yesterday and, as such, I will ask if there are any questions or comments prior to starting the clause-by-clause consideration of this bill.

Mr. Jagmeet Singh: Sorry, what was that?

The Chair (Mr. Grant Crack): Are there any questions or comments in general concerning any aspects of the bill prior to starting clause-by-clause consideration?

Mr. Jagmeet Singh: No.

The Chair (Mr. Grant Crack): Okay, thank you very much. We shall begin.

Sections 1 and 2: There are no amendments on the table, so shall sections 1 and 2 carry? All those in favour? Any opposed? There are none opposed. It's carried.

We will move to section 3, to which we have a number of amendments. We will begin with subsection 3(1). Any opposition?

Mr. Jim McDonell: This makes it clear the contract is engaging a consumer in Ontario, otherwise, it could be considered to be from another province. As we heard through the depositions, that could hurt us as far as call

centres. They would likely have to move or they'd have to fall under this legislation, which would mean they couldn't handle out-of-province contracts.

The Chair (Mr. Grant Crack): Further discussion? If you could read the motion onto the floor—

Mr. Jim McDonell: Okay.

I move that subsection 3(1) of the bill be amended by striking out "or the person engaging in the transaction with the consumer".

The Chair (Mr. Grant Crack): Further discussion?

Mr. Vic Dhillon: Chair, we'll be considering motions 1 and 3 and voting against them, the explanation being that the two motions would revise the application of the bill to be only where the consumer is located in Ontario. Normally, Ontario consumer law would apply to protect consumers outside Ontario. However, this sector has raised serious concerns with this approach, so we will be voting against it.

The Chair (Mr. Grant Crack): Thank you, Mr. Dhillon. Ms. Damerla?

Ms. Dipika Damerla: I just wanted to add to that by saying that we do have another amendment that would do the same thing. We're not opposed to it; we just feel that the way we are doing it is cleaner. It's not that we are opposed to what you are doing.

Mr. Toby Barrett: Which amendment is that? Which number is that?

Ms. Dipika Damerla: It will come in order, I guess.

The Chair (Mr. Grant Crack): Mr. McDonell.

Mr. Jim McDonell: If I may just speak on that. First of all, 1 and 3 go together. It was something we heard, I believe on Monday, from one of the national suppliers: that under the current legislation they wouldn't be able to offer call centre services in Ontario under this bill.

If you look at amendment 2, it has to be specified by the minister whether she believes that the contract is suitable or that the jurisdiction that the person is from has adequate protections. Really, it shouldn't be up to us to judge another jurisdiction's protections.

This makes it very clear. If you're a resident of Ontario, you'll fall under this law. If you're not, you don't; you fall under whatever the legislation is where the person resides. That's why we're following those two.

The Chair (Mr. Grant Crack): Thank you. Any other discussion? Mr. Singh.

Mr. Jagmeet Singh: This question is to the Liberals: Just addressing the minister regulation issue, because that makes some sense, if you could distinguish why 1 and 3

don't achieve the same thing as 2, because 1 and 3, in fairness, don't require minister regulation; they just clearly indicate who would be covered and who wouldn't. I like the wording of motion 2. In some respects, it's a bit more clear because it designates an exception and it lays it out in a way that I prefer, in some ways. But the minister regulation causes some concern for me. If you could explain why 1 and 3 don't achieve the same thing as 2, and what motion 2 offers that's better.

Ms. Dipika Damerla: I think that what the PCs are trying to do and what we are trying to do are very similar. We just feel—as you, yourself, said—that the way we have worded it is cleaner. It's also consistent with the federal Personal Information Protection and Electronic Documents Act. It's very similar to that. It's what Nova Scotia has already done, as well. So we're sort of following, I guess, tested ways of doing it, and we feel it's a robust way of doing it.

Mr. Jagmeet Singh: What about the minister regulation component?

Ms. Dipika Damerla: Sorry?

Mr. Jagmeet Singh: The component regarding the minister's regulations. It allows for decisions to be made by the minister—

The Chair (Mr. Grant Crack): Sorry, Mr. Singh, if I could just interject. We'll deal with the motion that's on the floor, and we will deal with the other amendments—

Mr. Jagmeet Singh: With respect, if we don't talk about 2, it's directly overlapped with 1—we actually have to talk about 1 and 3 to make it make sense. It doesn't work that way. Amendments 1 and 3 are linked, and 2 is exactly the same thing, just done in a different way, so they all are very relevant and work together.

The Chair (Mr. Grant Crack): Thank you.

Mr. Vic Dhillon: Chair, could I ask for a five-minute recess so we can get some clarification?

The Chair (Mr. Grant Crack): That would be in order.

Mr. Vic Dhillon: Actually, Chair, I'd like to amend that—maybe a 10-minute recess?

The Chair (Mr. Grant Crack): Is the committee in favour of a 10-minute recess?

Mr. Jim McDonell: Well, five minutes.

The Chair (Mr. Grant Crack): Okay, it will be a five-minute recess.

The committee recessed from 1614 to 1619.

The Chair (Mr. Grant Crack): Are all members of the committee prepared to proceed? Okay. Is there any further debate?

Mr. Jim McDonell: Yes.

The Chair (Mr. Grant Crack): Mr. McDonell.

Mr. Jim McDonell: Just in talking with Michael Wood—and maybe I'll ask him to follow up with this. But one of the issues we have is—they come very close, but what we're saying is, if you're one of the national companies that want to set up in Canada, we're setting an additional artificial barrier that may stop you from setting up in Ontario because we're being more restrictive. It's up to the minister to say, “Okay, if you're from, maybe,

Alberta, we agree with their laws, so this bill doesn't apply. But if you're from Quebec, we don't like their law, so you'll have to follow our laws, as well as Quebec's.” You're just setting barriers up and, well, why would you bother?

These people aren't residents of Ontario. The company has decided to set up a call centre in Ontario. Let them follow the laws that are under their own jurisdiction—which falls back to the CRTC code, which is very similar but just slightly different. It causes issues.

We heard from one of the national carriers that the way this law is made today, they would have to move their call centres out of Ontario because it includes provinces other than Ontario, which is problematic to them.

The Chair (Mr. Grant Crack): Thank you. Further discussion? Ms. Damerla.

Mr. Jim McDonell: And just to say—if Michael Wood can explain that part as well.

The Chair (Mr. Grant Crack): Ms. Damerla?

Ms. Dipika Damerla: Just to clarify what MPP Singh was alluding to, as well as MPP McDonell: What the minister's regulation really does is, as I understand it, if you're a consumer in Alberta and—the call centre really is a red herring. It's not about the call centre. But you're working and you have a contract with a company that's registered in Ontario, then you would get the consumer protection that Ontarians get. But if you happen to be in a jurisdiction like Nova Scotia, which has its own consumer protection, which is very similar to Ontario's, then you wouldn't be captured by it.

This is really about somebody who lives in a province that doesn't have consumer protection as robust as Ontario's but is dealing with an Ontario-based company. If you were a BC-based company and you had a call centre in Ontario—I mean, it's very complicated. It depends on the contracts that have been signed, but the intent really is if it's an Ontario-based company, then the consumer protection that we give to Ontarians would be available to anybody—that's the difference between 1 and 3, and 2.

The Chair (Mr. Grant Crack): Thank you. Mr. Singh?

Mr. Jagmeet Singh: This question is actually to Mr. Wood, legislative counsel. Would you be able to comment on the scenario under 2 with a call centre, and whether that would impact—if I can give you maybe a more concrete example: The example I guess is simply if a company from Manitoba or, let's say, the Northwest Territories wants to set up a call centre in Ontario and the Northwest Territories doesn't have a provincial wireless agreement or consumer protection act, if they were to set up their call centre in Ontario, would they be able to engage with the Northwest Territories' clients or consumers using the law of that territory or would they be compelled to follow the law of Ontario? Because I don't think that necessarily would happen, but that's a legitimate concern. We shouldn't be creating barriers.

Mr. Michael Wood: The main comment that I have to make is that there is a substantive difference between, on

the one hand, motions 1 and 3 and, on the other hand, government motion 2. Government motion 2 requires that there be a minister's regulation in place to say that the act would not apply; whereas under PC motion 1, you're focusing only on where the consumer is located, not where the person engaging in the transaction with the consumer is located.

It maybe is a bit misleading to talk about the call centre. It's really the entity that is engaging in the transaction with the consumer.

Mr. Jagmeet Singh: Okay, that's very helpful. So just to clarify then, Ms. Damerla's point, that if I'm living in BC but I have a cellphone agreement based out of Ontario, I would still get the protection of Ontario if my cellphone agreement was an Ontario-based plan that I wanted to sign up for.

Mr. Michael Wood: As I read the bill—and perhaps we should ask ministry legal counsel to confirm this—the starting proposition is that if either the consumer or the person engaging in the transaction with a consumer is located in Ontario, then this act would apply. Under government motion 2, the exception is that the act would not apply if it so happens that the consumer is located in another jurisdiction and the minister's regulation recognizes that jurisdiction as providing adequate protection to the consumer.

It's up to the ministry to make a minister's regulation. I think in our example, if the party engaging with the consumer is in Ontario and the consumer is in BC, then the starting proposition is that the act would apply. It's only that it would not apply if the exception in government motion 2 kicks in.

Mr. Jagmeet Singh: I see.

The Chair (Mr. Grant Crack): Further discussion? I'll put the question—

Interjection.

The Chair (Mr. Grant Crack): Sorry? Mr. McDonell.

Mr. Jim McDonell: Just to clarify, if I'm a national supplier, which I think in most cases most of them are—at least, interprovincial—if my representative is calling from Ontario, what we're saying is, they have to follow the Ontario laws, unless they're excluded by regulation. That could be international, or it could be in the province itself.

Mr. Michael Wood: That is how I interpret government motion 2.

Mr. Jim McDonell: Okay. We'd like a recorded vote on it as well.

The Chair (Mr. Grant Crack): Okay, so I will put the question to a vote. There has been a request for a recorded vote—

Mr. Jagmeet Singh: Sorry, I missed the answer that Mr. Wood gave on that last—

Mr. Michael Wood: Yes, that is how I interpret government motion 2.

The Chair (Mr. Grant Crack): Okay, thank you. The Clerk will take over the proceeding from here for the recorded vote.

Ayes

Barrett—

Mr. Jagmeet Singh: Sorry, my apologies—

Interjection.

The Chair (Mr. Grant Crack): We're voting on the amendment.

Mr. Jagmeet Singh: Amendment number 1?

The Chair (Mr. Grant Crack): The first motion, by Mr. McDonell.

Interjection.

The Chair (Mr. Grant Crack): No, there will be no amendments today other than the amendments that have been put forward.

Mr. Jim McDonell: So we're just voting on the amendment.

Mr. Vic Dhillon: On the motion.

Mr. Jim McDonell: Yes.

The Chair (Mr. Grant Crack): Okay, so we're in the middle of a vote—

Mr. Jagmeet Singh: Sorry. What I would ask to do is, given the answers by Mr. Wood and some of the submissions made, I want to just consider that for a moment before I make a vote. I would ask for a five-minute recess just to compose my thoughts, given the new information that has come to light, before I make a vote.

The Chair (Mr. Grant Crack): Well, Mr. Singh, with all due respect, I'd like to be able to grant you your request, but we were in the middle of a vote. There has already been a record of one of the members of this committee, so we will have to proceed with the vote. I apologize for that, but that's the way it works.

Mr. Jagmeet Singh: Perhaps I would assist the PCs—I mean, if I was to think it through and I want to support it, it might be in their best interest to allow this to happen. It could benefit democracy to be able to look at it a little bit better and make the decision because we've just discussed it.

The Chair (Mr. Grant Crack): Members of the committee, Mr. Singh has asked for a five-minute recess. Is there unanimous consideration by the committee to grant that?

We will have the vote immediately when we come back from the five-minute recess. Thank you very much—five minutes.

The committee recessed from 1627 to 1632.

The Chair (Mr. Grant Crack): Okay. Thank you very much, everyone.

As we were at the beginning of a recorded vote, I would ask that those in favour, please raise your hands.

Ayes

Barrett, MacLaren, McDonell.

Nays

Cansfield, Damerla, Dhillon, Sattler, Singh.

The Chair (Mr. Grant Crack): The motion is defeated.

Which takes us to the second amendment of subsection 3, section 2 on page 2. Anyone wish to speak? Any discussion on this amendment? I believe we need to have it read into the record first, so why don't we do that. Mr. Dhillon.

Mr. Vic Dhillon: I move that subsection 3(2) of the bill be struck out and the following substituted:

"Exception

"(2) Despite subsection (1), this act does not apply in respect of any transactions relating to a wireless agreement if, when the transaction takes place, the consumer is located in a jurisdiction other than Ontario that is designated by a minister's regulation made under subsection (2.2).

"Definition

"(2.1) In subsections (1) and (2),

"'transaction' means any act or instance of conducting business or other dealings with a consumer, including a wireless agreement.

"Minister's regulations

"(2.2) The minister may make regulations designating a jurisdiction other than Ontario for the purposes of subsection (2) if the jurisdiction has legislation that applies to the transaction and the minister is of the opinion that the legislation provides protection to the consumer that is similar to the protection provided by this act."

The Chair (Mr. Grant Crack): Thank you, Mr. Dhillon. Any discussion? Mr. McDonell.

Mr. Jim McDonell: As we said before, this now applies to jurisdictions outside Ontario and outside Canada. If you're calling in and you want roaming charges, now you have an extra layer of government you have to follow.

I think some of our multinationals are very clear; if they're going to have to choose where they're establishing these call centres, in spite of paying extra fees for hydro and other things, you've now got to worry that you've got a different set of rules in Ontario than you would anywhere else in the country, and it may make their decision as to where they create these jobs. These jobs are generally—if I go to my own home riding in Cornwall, it probably, overall, has 1,000 jobs in different call centres. They may not go to Ontario under these regulations.

The Chair (Mr. Grant Crack): Thank you, Mr. McDonell. Mr. Singh.

Mr. Jagmeet Singh: My concern is actually that there's a problem with this bill as well in the sense that, ideally, if I'm a consumer and I want to purchase a product in Ontario, I should be protected by Ontario laws, wherever I live. I could be in France, and I wish to buy an Ontario cellphone; I should be protected by Ontario's laws because it's an Ontario cellphone. That makes sense, but in fairness, if I'm living in Ontario but I'm purchasing a phone in Nova Scotia or in Saskatchewan, technically this amendment or the existing bill would still force that other jurisdiction or that other

provider to be covered by Ontario law. It doesn't make sense that someone living in Ontario buying a product in another province would force the other province to provide Ontario protection. That doesn't really make sense, but that's what would happen with this bill.

Ideally, I would be against all three—1, 2 and 3—and propose an alternative that says, "wherever the product is going to be." So if I'm buying a product and I want it to be an Ontario cellphone number, that's where the protection should be—in Ontario—because it's an Ontario cellphone number and an Ontario product. That would be a better way of crafting it.

The way it's crafted now allows for the anomaly of living in Ontario but buying a product in another province, and somehow that other provider has to follow Ontario laws, because if you're engaging with—someone answer that if I'm wrong, but I think that's the way it's written, and I think that's anomalous and doesn't make sense.

The Chair (Mr. Grant Crack): Thank you, Mr. Singh. Mr. Dhillon?

Mr. Vic Dhillon: I'm not sure if I'm understanding what Mr. Singh is saying. If Saskatchewan does not have consumer protection—can you just clarify what your point is again for me?

Mr. Jagmeet Singh: Sure. The way I read this—because it states: "if the consumer or the person engaging in the transaction with the consumer is located in Ontario when the transaction takes place." So if the consumer is located in Ontario but the provider is not, my understanding is that the provider would be forced to follow Ontario laws, even though the provider is not from Ontario. If that's not the case, then that's okay, but that's the way I'm reading this. Maybe we can get legislative counsel to confirm, but that's the way it seems to me.

Mr. Vic Dhillon: Yes, can you please clarify the point?

Mr. Michael Wood: I agree with Mr. Singh's interpretation. If either the consumer or the person dealing with the consumer is located in Ontario, under 3(1) of the bill, the act, would apply.

Ms. Dipika Damerla: Sorry, say that again.

Mr. Michael Wood: Under 3(1) of the bill, if either the consumer or the person dealing with the consumer is located in Ontario, then the act does apply. Government motion 2 then creates an exception if there is a minister's regulation. The starting proposition is, yes, if either party is located in Ontario, then the act applies.

Mr. Jagmeet Singh: Which is the nonsensical part, because, like I said, the example is—ideally, what we should do is we should modify the amendment to say that if you're buying a product in Ontario, it should be protected by Ontario law, yes, but if you're in Ontario, buying a product in another province, it shouldn't be protected by Ontario law because that's up to the other province to determine what they want to do or not do. I don't think that really makes sense, and there would probably be significant—you could have court actions on that, because to assume that Ontario could presuppose

what protection someone should have in New Brunswick is, I think, problematic. That's the way the law is written right now, and we could make it better by clarifying that point, but motion 2 doesn't actually cover that point.

1640

We could come up with an alternative way to do it, but I think our hands are kind of tied, because it's a programming motion. It's a bit of an awkward situation to be in: We could come up with something better, and we're in a great position to do it, but I think this problem is going to exist even if we pass motion 2, so there we go.

The Chair (Mr. Grant Crack): Thank you, Mr. Singh. Any further discussion?

Okay. Then I will put the question to a vote.

Mr. Jim McDonell: May we have a recorded vote?

The Chair (Mr. Grant Crack): A recorded vote has been requested.

Ayes

Cansfield, Damerla, Dhillon, Sattler, Singh.

Nays

Barrett, MacLaren, McDonell.

The Chair (Mr. Grant Crack): There are five in favour; three opposed. The motion is carried.

We shall move to subsection 3(3). Mr. McDonell.

Mr. Jim McDonell: I move that subsection 3(3) of the bill be amended by striking out "none of the parties is located" and substituting "the consumer is not located".

The Chair (Mr. Grant Crack): Thank you, Mr. McDonell. Any discussion?

Mr. Jim McDonell: I'll just explain. This goes along with the first part of it that we heard, the issue with the call centres that could set up on Ontario. It would be problematic without this type of ruling.

The Chair (Mr. Grant Crack): Any further discussion? Mr. Singh.

Mr. Jagmeet Singh: To Mr. Wood: In the case of an amendment, renewal or extension, would this address my concern? Actually, if you look at it, "none of the parties is located..." So if neither the consumer nor the provider is located in Ontario, then the bill wouldn't apply.

Mr. Michael Wood: Mr. Singh, as I understand your concern, subsection 3(3) of the bill only addresses the situation where the agreement is amended, renewed or extended. It doesn't address a situation where the transaction—the agreement—is entered into in the first place.

The Chair (Mr. Grant Crack): Any further discussion?

Then I shall put the question to a vote.

Mr. Jim McDonell: Recorded vote.

The Chair (Mr. Grant Crack): There has been a request for a recorded vote.

Ayes

Barrett, MacLaren, McDonell.

Nays

Cansfield, Damerla, Dhillon, Sattler, Singh.

The Chair (Mr. Grant Crack): There being three in favour and five opposed, the motion is defeated.

We'll move to subsection 3(5), on page 4. Mr. McDonell, would you read the motion into the record?

Mr. Jim McDonell: I move that section 3 of the bill be amended by adding the following subsection:

"C.R.T.C. Wireless code prevails

"(5) In the event of a conflict between a provision of this act and the regulations made under it, on the one hand, and a provision of the Wireless code of the Canadian Radio-television and Telecommunications Commission, as it is amended from time to time, the latter prevails."

The Chair (Mr. Grant Crack): Thank you, Mr. McDonell.

Any discussion on the motion? Ms. Sattler.

Ms. Peggy Sattler: The concern I would have is if the provisions of the legislation are more stringent and offer better protections than the CRTC. I guess my question to legal counsel is: If the CRTC code prevails, then there would potentially be a loss of consumer protection; is that correct?

Mr. Michael Wood: That is correct, but, of course, it is a matter of interpretation as to whether the Wireless code of the CRTC provides more or less protection to the consumer.

The Chair (Mr. Grant Crack): Any further discussion? Mrs. Cansfield.

Mrs. Donna H. Cansfield: I just wanted to put in place that it's really not appropriate to claim the ability to decide the constitutional interpretation in a provincial statute. I think that's a very clear clear point to make in terms of this particular motion.

The Chair (Mr. Grant Crack): Mr. Singh.

Mr. Jagmeet Singh: Yes, just on the exact same point: There have been volumes and volumes of constitutional law books written and decisions made on this very issue. If there is a conflict, what law applies is a matter of constitutional law, and it would be determined by the courts. In certain areas, the CRTC does prevail, and it's already the law of the land. In some areas, there may be a dispute, and that's a matter of constitutional law. I don't think codifying it necessarily makes sense. I would oppose this for that reason.

The Chair (Mr. Grant Crack): Mr. McDonell.

Mr. Jim McDonell: Our point with this is, why are we forcing or looking at challenges to this in court? We have now federal legislation that's involved. It covers the issues. Let it prevail. Really, there's some benefit to the overall cost of telecommunications if they can apply legislation right across the province; it's done once. I

think that, from information I've heard and feedback I've heard on the CRTC code, it's quite adequate. Entering into these small—chopping the country up into sections and making legislation that applies in each section is only problematic. We're challenging to a court decision to find out which applies, and why are we doing that? We really would like to simplify it and make it easy to do business in this country.

The Chair (Mr. Grant Crack): Any further discussion? There being none, I shall put the question to the vote.

Mr. Jim McDonell: Recorded vote.

Ayes

Barrett, MacLaren, McDonell.

Nays

Cansfield, Damerla, Dhillon, Sattler, Singh.

The Chair (Mr. Grant Crack): There being three in favour and five opposed, the motion is defeated.

I shall ask the members of the committee, now that we're done section 3, shall section 3, as amended, carry? Those in favour?

Interjection.

The Chair (Mr. Grant Crack): As amended. I'll ask one more time just for clarification. Shall section 3, as amended, carry? Any opposed? Carried.

That was quite challenging, everyone. Thank you very much.

We have sections 4, 5, 6 and 7, inclusive—

Mrs. Donna H. Cansfield: May I ask just for a clarification? We just did section 5, subsection (3), wasn't it?

The Chair (Mr. Grant Crack): Section 3, subsection (3)—(1), (2), (3) and (5) were the amendments proposed.

Mrs. Donna H. Cansfield: I'm just looking for clarification. On page 3, it's section 5; underneath, it's subsection (3). Wouldn't it be five of three that would carry, not three of five? I'm just asking, just to make sure—as amended.

The Chair (Mr. Grant Crack): Well, we were dealing with section 3, but there were some smaller subsections—(1), (2), (3) and (5)—that there were amendments proposed. Three were defeated—

Mrs. Donna H. Cansfield: Okay, all right. I'm just making sure that it was the way it was supposed to be.

The Chair (Mr. Grant Crack): Section 3 has carried, as amended. This takes us to sections 4, 5, 6 and 7. There were no proposed amendments, so I would ask: Would sections 4, 5, 6 and 7 carry? Any opposed? I declare those sections carried.

In section 8, I'd advise members of the committee that perhaps it might be prudent to deal with clause 8(1)(a), which is an opposition, PC, amendment on page 6, prior to page 5, as there could be some implications. We would try to make this flow as smooth as possible.

1650

Mr. Jim McDonell: So you're saying to deal with amendment 6 first?

The Chair (Mr. Grant Crack): Yes, on page 6, please.

Mr. Jagmeet Singh: I'm just wondering, Mr. McDonell, if you're agreeable to that. Does that make sense? Because you've proposed it. Or you don't think—

Mr. Jim McDonell: I think they're separate, but sure. We can deal with them. They're intended to be separate, but sure.

The Chair (Mr. Grant Crack): Okay. Well, thank you very much. The floor is yours, sir.

Mr. Jim McDonell: So we're dealing with amendment 6 first. I move that clause 8(1)(a) of the bill be amended by adding "and expressed as an amount payable per month" after "the term of the agreement".

The Chair (Mr. Grant Crack): Okay, Mr. McDonell, would you like to explain?

Mr. Jim McDonell: Well, we found out that people are used to comparing prices per month, and we feel that by doing a total cost, it can be confusing. Really, people think of their cellphone as a per-month cost, and there are a lot of other issues that can be modified throughout the term so that could be argued whether it should be added or not. So that's why we're looking at a per-month basis, similar to what is standard in the industry.

The Chair (Mr. Grant Crack): Mr. Dhillon.

Mr. Vic Dhillon: The all-inclusive pricing is one of the main reasons for Bill 60, so that would defeat the purpose of the bill, pretty much. We believe the monthly bills, or costs, as they exist—

Mr. Jim McDonell: You're saying all-in monthly—

Mr. Vic Dhillon: We believe the monthly way of billing is more confusing, in fact. This way, the consumer knows, with the all-inclusive pricing, how much exactly they're paying for the term of the contract.

The Chair (Mr. Grant Crack): Ms. Sattler.

Ms. Peggy Sattler: Yes. I guess the question is for legal counsel. We heard that it would be helpful to consumers to have the total over the term of the contract as well as the monthly cost.

When I first read this amendment, I wondered if that's what it was trying to achieve so that there would be both the all-inclusive pricing and also an expression of the monthly amount. But if the intention is to actually replace the all-inclusive price with a monthly amount, then I would have concerns.

The Chair (Mr. Grant Crack): Mr. McDonell.

Mr. Jim McDonell: Just for clarification: All-inclusive monthly costing is what we're talking about. We're not looking at putting the total for two years up.

The Chair (Mr. Grant Crack): Any further discussion? Ms. Damerla.

Mr. Jagmeet Singh: Sorry. My apologies. You can go ahead with the question, but just for the record, Ms. Sattler was looking for an answer from Mr. Wood. I think Mr. Wood didn't get an opportunity to respond to the question that was put to him. But I have no problem

with Ms. Damerla asking her question first, and then we can go back to Mr. Wood. I have a question as well, so it's fine.

The Chair (Mr. Grant Crack): Okay. It would be helpful, in the future, to address the Chair and then perhaps explain who you're looking for an answer from. Maybe it could be an explanation from the proposer. It could be from Mr. Wood, legislative counsel—

Mr. Jagmeet Singh: Ms. Sattler indicated the question was to—she did indicate that in her question.

The Chair (Mr. Grant Crack): Oh, she did?

Mr. Jagmeet Singh: She did.

The Chair (Mr. Grant Crack): I did not hear. I apologize.

Mr. Jagmeet Singh: Not a problem.

The Chair (Mr. Grant Crack): Okay. So we'll go here, and then we'll come back. How's that? Thank you for your kindness.

Ms. Dipika Damerla: I just wanted to point out that the legislation as crafted does not stop the companies from advertising the all-inclusive price on a monthly basis. All that it's saying is, it should say the annualized price somewhere. They can continue to advertise the all-inclusive price on a monthly basis. So that's important. It's not going to stop anybody from saying that the monthly price is \$47 a month: \$45 for the plan itself and \$2 a month for the hardware and whatever other incidental one-time costs there are.

The Chair (Mr. Grant Crack): So we will return to Ms. Sattler, and I apologize. If you direct your question to Mr. Wood, that would be much appreciated.

Ms. Peggy Sattler: The question was, would this amendment allow for both the total costs over the term of the agreement as well as a monthly cost to be reported to consumers?

Mr. Michael Wood: I first have to start with a qualification. If and when this bill is enacted, then it would be up to the ministry to give a formal interpretation of how to interpret it, but I can give you my interpretation right now. The lead-in words of subsection 8(1), before you get to the clauses, are pretty broad. It says that the information has to include an all-inclusive cost. That shows, and then you break out into the clauses. I would think that the safer way to interpret it is, yes, you would have to indicate both an all-inclusive cost and, under clause (a), show a breakdown per month.

The Chair (Mr. Grant Crack): Any further questions or comments? Mr. McDonell.

Mr. Jim McDonell: Yes. I just want to point out that we're being different here than all the other 10 or 12 jurisdictions in the country. We do live in border towns where they advertise in, say, the Gatineau papers versus Ontario. I really wonder why—we're only trying to get at the all-inclusive costs, and when you're different, it just presents problems. Most people think, if you look at a bill of \$50 a month versus seeing a bill that's for 24 months, you're looking at \$1,200 for a bill and you try and compare that to other ads you've seen across the country and you just wonder, "Why are we different

here?" Other than the fact, I guess, we can be, but is that the smart thing to be?

The Chair (Mr. Grant Crack): Thank you, Mr. McDonell. Mrs. Cansfield.

Mrs. Donna H. Cansfield: I'd like to make the comment that even the federal government has become a little more consumer-friendly these days and, actually, I really like all-inclusive pricing starting with airline flights, and this is the same idea. I think it's really important for people to know the cost of that agreement that they are signing, especially when you consider the extensive use of cellphones amongst our children. Parents need to know. You still have the ability to do both, but I think that upfront cost is really important for people today, especially because they need to budget and they need to have an understanding of what their output would be for a year on one, two or sometimes three phones in their family. I think that's a really good form of openness and transparency. It still doesn't preclude that you can say this breaks down into your monthly cost. I suspect this is something that all good consumers would appreciate.

Mr. Jim McDonell: It's not every year; it's two years.

Mrs. Donna H. Cansfield: Even on two years. If it's a five-year contract, tell them up front. I just think that as you're budgeting today, it's really hard for people to look at their overall costs. If they know what their insurance cost is on their car for a year, they should know what their cost should be on their cellphone for a year or for two years so they can do that budgeting.

The Chair (Mr. Grant Crack): Mr. Singh?

Mr. Jagmeet Singh: I'm going to ask this question again to Mr. Wood, just for clarification. I'm also wondering, given Mr. Wood's comment, that perhaps we should have ministry counsel field the same questions as well, to interpret the way they think their bill will be—so they can provide their understanding of how the bill will be interpreted in law. I think there is a foundation for that. Is there a forum for that to happen? That's my first question. Secondly, I have a question for counsel. Mr. Chair, those are my two questions.

The Chair (Mr. Grant Crack): Is there any legal counsel here from the ministry who would be able to address that?

Interjection.

The Chair (Mr. Grant Crack): Thank you very much. Perhaps introduce yourself for the record.

Ms. Marilyn Marshall: My name is Marilyn Marshall, legal counsel with the ministry. If I could ask the question to be rephrased, I'd really appreciate it.

Mr. Jagmeet Singh: Sure, yes. Could we ask, would it be okay with everyone if we have Ms. Marshall take a seat?

The Chair (Mr. Grant Crack): Any opposed? There are none. Welcome.

Ms. Marilyn Marshall: Thank you.

Mr. Jagmeet Singh: The question—and we could have both legal opinions battle it out, perhaps. No, no, I'm joking.

The question is—what Ms. Sattler had indicated. Do you know the bill well?

Ms. Marilyn Marshall: I'm happy to get it.

Mr. Jagmeet Singh: Yes. There you go. I'm looking at clause 8(1)(a), and it reads, "the total cost payable by the consumer over the term of the agreement," and the amendment would say "and expressed as an amount payable per month," for that to be added at the end of the term of the agreement. So it would read this way: "the total cost payable by the consumer over the term of the agreement and expressed as an amount payable per month." Would that be interpreted to mean that they would show the total cost payable over the entire term and in addition have it expressed as a monthly payable amount, or would it actually say that the total cost would have to be expressed in a monthly total payable amount?

1700

Ms. Marilyn Marshall: The problem in answering it is that I may have a particular view, but I suspect that the suppliers themselves would have a different view. I don't think it's clear to me, reading it, that it means, "Give me the annual amount and also show it as a monthly amount." To me it's two thoughts: "Show the total price over the term, and be sure and express it as a monthly amount." I wouldn't necessarily conclude that it would have both there. But to the point that was made earlier, these are the minimum requirements, and the expectation is that they would show in the advertisement. They're not the only things that can show up in a price advertisement.

Mr. Jagmeet Singh: It can show anything else in addition.

Ms. Marilyn Marshall: Exactly.

Mr. Jagmeet Singh: This is just what's required, and they can choose to show the bimonthly amount, the trimonthly or the monthly amount.

Ms. Marilyn Marshall: Maybe I'm being a bit presumptuous, but if 8(1)(a) is looked at, it also has an impact if it were to be approved because under 8(1)(c), where it talks about disclosures, they would not apply to fixed-term contracts. The way it's set up is problematic to have 8(1)(a) by itself.

Mr. Jagmeet Singh: Okay, that's really helpful. Could we just request the counsel to stay because we might have further questions? Or should we just call you up on a term-by-term basis? I'm okay with either.

The Chair (Mr. Grant Crack): Members of the committee?

Ms. Dipika Damerla: Chair, I just have a clarification. It's not clear to me: Is the PC Party proposing that we are only dealing with 8(1)(a) or 8(1)(a) and (b)? Are you withdrawing (b) or are they both going in tandem?

Mr. Jim McDonell: No, they asked us to do this first—

Ms. Dipika Damerla: Sorry?

Mr. Jim McDonell: The Chair asked us to look at this one first. We're going back to the one previous.

Ms. Dipika Damerla: Fair enough.

The Chair (Mr. Grant Crack): I think, Ms. Damerla, you also mentioned 8(1)(b). That's not part of this particular amendment.

Ms. Dipika Damerla: The PC motion 5 that I have is 8(1)(a) and (b), but we jumped to 6, so I wasn't sure if I was still on the table or not.

Mr. Jim McDonell: You asked if we minded jumping ahead. We'll go back.

Ms. Dipika Damerla: Because (a) on its own has a different impact than (a) and (b) together. That's why.

Mr. Jim McDonell: The intent is (a) and (b) together.

Ms. Dipika Damerla: Okay.

The Chair (Mr. Grant Crack): Okay, everything clear so far? Any further discussion?

Mr. Jim McDonell: Just a question: I'm not sure why we would treat this cellphone differently than your telephone, your Rogers cable, your Internet. Everything we do in that telecommunication package is on a per-month basis. Now, for a cellphone, we're going to advertise differently. I just think that all we're looking for is the all-inclusive price per month to make it standard with everything else. That's really our only point. Now you're looking at the advertised price of something; let's say, as an example, two years at \$50 is \$1,200. The only place we're doing that is in Ontario. If you look at the phone bill, it's going to be \$36 a month. It's just that you're doing something different, and we're wondering why. It's confusing.

The Chair (Mr. Grant Crack): Ms. Damerla.

Ms. Dipika Damerla: Just for the record, I do agree with Jim's point that people think of cellphones on a monthly basis. That's why I keep reiterating that the intent is not that cellphone companies will not be able to, going forward, advertise \$48 a month, but if just somewhere in there they can put the full-term cost. But their prominent advertising could still be the monthly cost, and the full-term could be somewhere else. I get what you're doing, and I think there's a compromise here.

Mr. Jim McDonell: I think, though, the bill asks that the all-in cost, the total, be the prominent one, not the monthly one. That's the confusing part.

The Chair (Mr. Grant Crack): Ms. Sattler.

Ms. Peggy Sattler: I was going to make the same point, that 8(2) says that the all-inclusive cost is the most prominent cost in the advertising.

The Chair (Mr. Grant Crack): Any further discussion? Then I shall put the question to a vote. Those in favour? Any opposed? There are three in favour and five opposed; the motion is defeated.

This takes us to subsection 8(1). Mr. McDonell.

Mr. Jim McDonell: This is amendment 5; we're just going back the one page.

I move that subsection 8(1) of the bill be struck out and the following substituted:

"Advertising

"(1) If information on the cost to a consumer is included in any advertising with respect to a wireless agreement, the supplier shall ensure that the information includes an all-inclusive cost, other than the harmonized sales tax payable under part IX of the Excise Tax Act (Canada) and all other fees payable under an act of On-

tario or Canada to the government of Ontario or Canada, that shows,

“(a) the minimum cost; and

“(b) all costs, if any, payable by the consumer under the agreement that are not periodic costs and that are payable in addition to the minimum cost, the harmonized sales tax and all other fees payable under an act of Ontario or Canada to the government of Ontario or Canada.”

Basically, we’re saying to exclude all fees like your 911 fees, your eco fees and sales tax fees that are provincial in nature. Your eco fees are generally excluded, so if you have to start putting them in, it’s kind of contradictory. Again, it doesn’t allow you to advertise in one place; if you advertise in a paper in Ontario, it would be different than the Montreal Gazette, which leads to confusion again, because generally those fees are excluded.

This is putting them in. If I go into Canadian Tire, my eco fees are excluded; they’re on the bottom line. They’re not on the advertised price that’s on the shelf, so we would think that this should be the same way.

The Chair (Mr. Grant Crack): Okay, thank you. Any further discussion? Ms. Damerla?

Ms. Dipika Damerla: I just wanted to make the point that if “prominent” is an issue, we can work around that, and it doesn’t have to be prominent on an annualized—over the fixed term. It’s not a sticking point for us. We could have the monthly as “prominent.” I would be fine with that.

The Chair (Mr. Grant Crack): Thank you. Any further discussion? Okay. I shall put the question to a vote. Those in favour?

Mr. Jim McDonell: Recorded vote.

The Chair (Mr. Grant Crack): Okay, recorded.

Ayes

Barrett, MacLaren, McDonell.

Nays

Damerla, Dhillon, Fraser, Sattler, Singh.

The Chair (Mr. Grant Crack): That is three in favour and five opposed. The motion is defeated.

We shall move to subsection 8(3). Mr. McDonell, would you move the amendment into the record, please?

Mr. Jim McDonell: This is number 7.

I move that subsection 8(3) of the bill be struck out and the following substituted:

“Consequence

“(3) If information on the cost to a consumer is included in any advertising with respect to a wireless agreement, the supplier shall not demand, request or accept payment from the consumer in excess of the all-inclusive cost, other than the harmonized sales tax payable under part IX of the Excise Tax Act (Canada) and all other fees payable under an act of Ontario or Canada to the government of Ontario or Canada, shown in the advertising in respect of the offer that the consumer accepts.”

So, again, we are looking at excluding the sales tax, which is law, and the eco tax, which is now the current practice in Ontario.

The Chair (Mr. Grant Crack): Thank you very much, Mr. McDonell. Any further discussion on the motion?

Mr. Jim McDonell: Recorded vote, please.

The Chair (Mr. Grant Crack): I shall put the question to a vote, and there has been a request for a recorded vote.

Ayes

Barrett, MacLaren, McDonell.

Nays

Damerla, Dhillon, Fraser, Sattler, Singh.

The Chair (Mr. Grant Crack): Thank you. That’s three in favour and five opposed. The motion is defeated. That is it for section 8.

Shall section 8 carry? Those in favour? Those opposed? It is carried. Section 8 is carried, five to three. Thank you.

Section 9, subsections 2 and 3: Mr. McDonell, on page 8.

Mr. Jim McDonell: I move that subsections 9(2) and (3) of the bill be struck out.
1710

The Chair (Mr. Grant Crack): Any further discussion on the motion? Mr. McDonell.

Mr. Jim McDonell: This amendment brings us in line with the CRTC code. The clause makes a distinction between optional services that are included at a minimum cost—for example, caller ID for \$5 a month, and pay-for-use services like roaming or pay-for-use data. The amendment clarifies this distinction as it is clarified in the CRTC code, and it kind of gets away from the possibility of double billing.

The Chair (Mr. Grant Crack): Any further discussion? Mr. Singh.

Mr. Jagmeet Singh: This question is to Mr. McDonell. Can you clarify how this would get rid of double billing? I guess we can begin with that.

Mr. Jim McDonell: Well, you’ve got billing that’s not included in an all-in—it gets confusing because you have add-ons that are included or not, because they’re based on usage. It’s something that we’re proposing. The CRTC already includes it in a different way, and we think it makes it less ambiguous. There’s just more clarification.

Mr. Jagmeet Singh: Through the Chair, my question, again to Mr. McDonell, is: How does the CRTC cover this already? If you could explain that.

Mr. Jim McDonell: I’d have to look back through the section. We’re just saying that it’s a problem that doesn’t exist if you look through that section. We’re adding it in, and we just think that it’s something that you could leave

out and it just adds some clarity to it. It's an issue that clarifies the distinction as it's defined in the CRTC code.

Mr. Jagmeet Singh: Mr. Chair, again.

The Chair (Mr. Grant Crack): Yes, go ahead, Mr. Singh.

Mr. Jagmeet Singh: Thank you. The issue here is that it speaks of—if you have two agreements on the same device, “if any part of the term of the agreements overlaps with each other.” You can still have two agreements on the same device if the agreements don't overlap, but if the agreements overlap it won't allow the agreement to include that, so a consumer can't, basically, get into two agreements on the same phone if they overlap. That makes sense to me, I think.

Mr. Jim McDonell: Just as a clarification—

The Chair (Mr. Grant Crack): Mr. McDonell.

Mr. Jim McDonell: I was just reading the wrong paragraph, so I'll just fix this up. It is, for all intents and purposes, possible to create two accounts. Using the same device under two different agreements simultaneously, the devices used as a SIM card can only be used under one account at a time, while the non-SIM card devices must be ported from one account to another. If the current clause wants to prevent consumers from entering into new agreements, the CRTC already provides mandatory disclosures on a particular contract, and in fact, it's a new agreement. I'm sorry for that. What we're talking about here is that with a SIM card, you can't have two accounts. It's only possible to have one, so it's talking about something that can't—if you have a separate device, then it's already handled in the CRTC code. That's the intent of it. It's a clarification. It's not a show-stopper for us, but it—

Mr. Jagmeet Singh: Okay. Thank you very much.

The Chair (Mr. Grant Crack): Any further discussion?

I shall call the question to vote. Those in favour? Those opposed? Five opposed. The motion is defeated.

I shall ask—because that's the only amendment to section 9—shall section 9 carry? Any opposed? Five in favour, three opposed. Section 9 is carried.

We shall move to section—

Mr. Jagmeet Singh: Just out of curiosity, Mr. Chair, if there's not a recorded vote, there's no number. You just say, “It passes on division.” Is that how it works, just for clarity purposes?

The Chair (Mr. Grant Crack): Okay, I will not enter the number next time.

Mr. Jagmeet Singh: No, I'm just wondering. Is that the proper procedure for committee? Do I understand it correctly? Yes, that is right.

The Chair (Mr. Grant Crack): Okay. Thank you. I'm too used to being a mayor.

We shall move on to section 10, subsection 10(1)(8) on page 9. Mr. McDonell?

Mr. Jim McDonell: I move that paragraph 8 of subsection 10(1) of the bill be amended by adding “on a pay per use basis” after “access under the agreement”.

This amendment brings this in line with the CRTC code. The clause makes a distinction between the optional services that are included in a minimum cost, an example being the addition of caller ID for \$5 a month, and a pay-per-use service, for example, roaming or pay-for-use data. This amendment clarifies this distinction, as it is clarified in the CRTC code.

The Chair (Mr. Grant Crack): Thank you, Mr. McDonell. Any further discussion? Mr. Singh.

Mr. Jagmeet Singh: What would the impact be of motion 9? If I understand this correctly, it would allow the wireless provider to amend—actually, I'll just have you explain it to me. Explain to me the impact of this motion. How would it impact the consumer?

The Chair (Mr. Grant Crack): Mr. McDonell.

Mr. Jim McDonell: Well, it adds in “on a pay per use basis,” because some of the services are pay-per-use, so it's just clarifying that.

I think maybe Mr. Wood could clarify.

The Chair (Mr. Grant Crack): Mr. Wood.

Mr. Jim McDonell: Maybe it's an unfair question.

Mr. Michael Wood: Well, yes. I can give you, at least, my legal interpretation, but I am certainly not a technical expert in the field. I'm not aware of all the various services that are out there, but let me just say that this is in the section which sets out disclosure obligations of the supplier under a wireless agreement. By adding this qualification, it could potentially cut back on the information that a supplier is required to provide, because it relates only to the services that the consumer can access under the agreement on a pay-per-use basis. It wouldn't include information about any other services that are not accessed under a pay-per-use basis.

Mr. Jim McDonell: It's just a clarification that that's included in it.

The Chair (Mr. Grant Crack): Any further discussion? Okay, I shall call the question to a vote. Those in favour? Those opposed? The motion is defeated.

Shall section 10 carry? Carried.

Interjection.

The Chair (Mr. Grant Crack): Oh, sorry. Those in favour of carrying section 10? Those opposed? Carried. Right. Okay. Just a little confused there for a second.

Section 11 and section 12: There are no amendments. Shall sections 11 and 12 carry? Those in favour? Those opposed? Carried.

We shall move on to section 13. Subsection 13(1): Mr. McDonell, on page 10.

Mr. Jim McDonell: Mr. Barrett's going to read it.

The Chair (Mr. Grant Crack): Oh, sorry. Mr. Barrett.

Mr. Toby Barrett: Yes, there's a PC motion on page 10, on subsection 13(1).

I move that subsection 13(1) of the bill be struck out and the following substituted:

“Fixed term agreement

“(1) No supplier under a wireless agreement that is for a fixed term shall amend any provision of the agreement that constitutes a key contract term and condition, as

described in the wireless code of the Canadian Radio-television and Telecommunications Commission, as it is amended from time to time, unless the consumer agrees to the amendment explicitly and not merely by implication.”

The Chair (Mr. Grant Crack): Thank you very much, Mr. Barrett. Any further discussion? Okay. Mr. McDonell.

1720

Mr. Jim McDonell: This amendment brings us in line with the CRTC code and imports their definition of a key contract term, the services offered, minimum cost, contract terms, cancellation fees, device subsidy amount, for example. Furthermore, the CRTC code allows amendments to those terms if they benefit the consumer, for example, by reducing the minimum cost or providing more services at the same cost—for instance, more data. In that case, the CRTC code would prevail.

We’re looking at places where the contracts are changed in the CRTC code which would benefit the consumer.

The Chair (Mr. Grant Crack): Thank you, Mr. McDonell. Any further discussion? Mr. Singh.

Mr. Jagmeet Singh: My only concern with this is that it includes key contract terms and conditions, as described in the wireless code of the Canadian Radio-television and Telecommunications Commission. The problem is, if you base our law on a definition found in another code, if they change that code’s definition, it would impact this legislation. If it was independently defined, I wouldn’t have a problem with it, but because it’s relying on a definition in another piece of legislation, that definition could change, and then it would change the impact of this legislation, perhaps unknowingly. It might be to the detriment; it might be to the benefit.

What you’re saying, the concept of allowing a provider to increase or provide more data without any cost—that’s a good concept. But I don’t think the way it’s written here captures that in a way that would be timeless. It’s limited because the definition could change by chance in the wireless code, and if it changes to something that’s a bit more obscure, it might impact the benefit that would be in this bill. That’s my problem with it; otherwise, I think it could have made sense.

The Chair (Mr. Grant Crack): Thank you. Mr. McDonell?

Mr. Jim McDonell: I mean, that’s one of the problems with having two bills that are looking after the same thing. You have a term that may be in the CRTC code that is in the provincial code, so maybe there’s an advantage to changing the term in the province code, slightly different, to get around—it presents some problems. This just talks about where changes are being made. We’re looking at, if there’s an advantage to the consumer, that the consumer will win on it.

The Chair (Mr. Grant Crack): Thank you. Mr. Wood?

Mr. Michael Wood: In fairness to members, I feel I should give some interpretation myself as to what the

effect of the PC motion is. Without the PC motion—subsection 13(1) of the bill says that no supplier can amend the agreement, in effect, in any way unless the consumer agrees to the amendment explicitly and not merely by implication.

The effect of the PC motion would be to cut back on that restriction so that the supplier would not be allowed to amend a provision of the agreement that constitutes a key contract term and condition as set out in the code unless the consumer agrees. But the supplier could amend some other term of the agreement without the explicit agreement of the consumer.

The Chair (Mr. Grant Crack): Thank you, Mr. Wood. Any further discussion? Mr. Singh.

Mr. Jagmeet Singh: Just so I understand that, Mr. Chair, through you to the counsel, if we use the example of adding—so it’s not a key term of the contract; it’s some side benefit that we are going to now increase. Your data used to be on a slower network; now we’re going to increase it to a higher-speed network, and you’re going to now take advantage of this better, faster service. What would have to happen under the existing law is that they would have to ask for the express permission of the consumer to say, “Yes, I agree to getting the better, faster Internet service.” But with the amendment, you’re saying that’s not a key piece of the contract. They would be able to change that without the express permission of the consumer. Am I understanding what you’re saying?

Mr. Michael Wood: We’re looking at what is actually in the wireless agreement. How the service is delivered may or may not be set out in the wireless agreement. I’m just commenting that right now, under the bill, the supplier is not allowed to amend the wireless agreement for a fixed term unless the consumer agrees to the amendment. The effect of PC motion number 10 would be to cut back on that protection. It wouldn’t be caught by the restriction if the supplier were not amending what constituted a key contract term and condition. To find out what constitutes a key contract term and condition, you’d have to refer to the code and the current code, as it is amended from time to time.

The Chair (Mr. Grant Crack): Thank you, Mr. Wood.

Ms. Damerla.

Ms. Dipika Damerla: I believe the concerns that were discussed by MPP Singh are actually addressed under subsection 13, where it says, “This section does not apply to an amendment of a wireless agreement if the amendment benefits the consumer and does not increase the consumer’s obligations under the agreement.” That would go to your point of faster service. No, in that case, it does not apply. Does that help everybody?

Mr. Jagmeet Singh: Perfect.

The Chair (Mr. Grant Crack): Any further discussion?

Then I shall put the motion to a vote.

Mr. Jim McDonell: Recorded.

The Chair (Mr. Grant Crack): A recorded vote.

Ayes

Barrett, MacLaren, McDonell.

Nays

Damerla, Dhillon, Fraser, Sattler, Singh.

The Chair (Mr. Grant Crack): The motion is defeated: three in favour, five opposed.

We shall move on to subsection 13(7), from the PCs, on page 11. Mr. McDonell.

Mr. Jim McDonell: I move that subsection 13(7) of the bill be amended by striking out the portion before clause (a) and substituting the following:

“Notice of amendment

“(7) The notice mentioned in subsection (6) shall set out,”

The Chair (Mr. Grant Crack): Thank you, Mr. McDonell. Any discussion?

Mr. Jim McDonell: The explanation is—

Interruption.

The Chair (Mr. Grant Crack): Go ahead, Mr. McDonell.

Mr. Jim McDonell: Okay. Amendments to agreements must clearly set out what’s being changed, but a brand new copy of the agreement is not necessary. It’s just a clarification.

The Chair (Mr. Grant Crack): Any further discussion? Mr. Singh.

Mr. Jagmeet Singh: If that’s true, if that’s all it does, I don’t think it’s necessary to send someone the entire contract again. It would just set out the parts that had been changed. To me, that inherently makes sense intrinsically, if that’s exactly what it will do. Could we get just a quick opinion on that from counsel and maybe from the ministry? If that’s what it does, yes, let’s move on with it. But if that’s not what it does, and I’m misunderstanding that, then—

The Chair (Mr. Grant Crack): Thank you, Mr. Singh. Mr. Wood?

Mr. Michael Wood: I agree with the interpretation, given that the effect of the motion is to get rid of the obligation to show an updated copy of the wireless agreement. But the rest of the subsection stays as is, so you have to set out the information that is required by the subsection.

The Chair (Mr. Grant Crack): Thank you. Mr. Singh?

Mr. Jagmeet Singh: Yes, can I just quickly get the ministry counsel to agree or disagree with that if they think that’s—

Ms. Marilyn Marshall: Yes, thank you.

The Chair (Mr. Grant Crack): Okay. Ms. Damerla?

Ms. Dipika Damerla: I think the concern could be that you’re right if there’s just the one-off amendment, but sometimes if the contract has been amended three times, then it’s probably beneficial for somebody like me to have the whole new contract rather than having to go:

“This is amended. This was original. This got struck out.” After a while, your original contract may not be very recognizable, and that’s what this is trying to do.

While I hear your point that if there’s just one thing that’s changed, do you really need to print the whole contract? I’m with you on that. The flip side is, what if there’s one amendment now and one six months from now? After a while, you won’t have the full contract.

The Chair (Mr. Grant Crack): Any further discussion? Mr. McDonell.

Mr. Jim McDonell: You’re limited to a two-year contract, and if you get a call talking about a service being reduced in price, do you demand that you have to have a copy of the contract signed before it takes effect or are you just happy with taking the savings and moving on? Really, we’re talking about a maximum two-year contract, so when you go ahead to the next one, it either becomes month-to-month or you renew the contract. It’s your choice at the end. Then, you would get a new contract.

Ms. Dipika Damerla: I think subsection 13 already addresses that by saying that if it’s a benefit, then you don’t need to give advance notice—non-application of section.

1730

Mr. Jim McDonell: We’re just saying what changes need to be clearly set out, but the rest doesn’t change.

Ms. Dipika Damerla: I hear you. I’m just saying, an accumulation of changes could be hard to follow.

The Chair (Mr. Grant Crack): Any further discussion? Okay, I shall call for a vote on the motion at this particular point. Those in favour? Those opposed? The motion is defeated.

We shall move on to subsection 13(11), the PC amendment on page 12, but I would like to remind members of the committee that there are 10 amendments left to deal with, and we have 30 minutes. If members want to get through every one of the amendments and pass the entire section, we have less than half an hour to do so as per the time-allocation motion.

Mr. McDonell.

Mr. Jim McDonell: I move that subsection 13(11) of the bill be struck out.

It’s the same issue as before. It just clarifies that if there’s a change, only the change has to be highlighted.

The Chair (Mr. Grant Crack): Any further discussion? There being none, I shall call the vote on the question. Those in favour? Any opposed? The motion is defeated.

We have before us section 13, now that we have completed dealing with the proposed amendments. Is it the wish of the committee to carry section 13? Those in favour? I’d like to be able to see—carried? Any opposed? Section 13 is carried.

We shall move to section 14, subsection 14(3). Opposition motion on page 13: Mr. McDonell.

Mr. Jim McDonell: I move that subsection 14(3) of the bill be struck out.

The Chair (Mr. Grant Crack): Any further explanation?

Mr. Jim McDonell: Section 14(3) goes against the spirit of the bill and makes the bill inconsistent. On the one hand, an amended agreement is not a renewed agreement, but on the other hand, in section 14(3), it becomes a new agreement. That's why we're suggesting to take it out.

The Chair (Mr. Grant Crack): Any further discussion? There being none, I shall call the motion to vote. Those in favour? Any opposed? The motion is defeated.

We are now finished with section 14. Shall section 14 carry? Those in favour? Those opposed? Section 14 is carried.

Section 15: shall section 15 carry? Those in favour? Those opposed? Carried.

Moving on to section 16, subsection 16(5): Mr. Dhillon.

Mr. Vic Dhillon: Chair, I move that subsection 16(5) of the bill be struck out and the following substituted:

"Same, fixed term agreement

"(5) If the consumer cancels a wireless agreement with a fixed term and in respect of which the supplier provided no goods to the consumer free of charge or at a discount, the maximum amount that the supplier may charge the consumer as a cancellation fee is the lesser of,

"(a) the sum of \$50; and

"(b) an amount representing not more than 10 per cent of the price of the services that were provided for in the agreement but not supplied by the date of cancellation, calculated as if the term of the agreement were 24 months."

I think this and the following two motions are there to have this bill be aligned with the national code.

The Chair (Mr. Grant Crack): Okay. Thank you, Mr. Dhillon. Any further discussion on the motion? There being none, I shall call the question to a vote. Those in favour? Any opposed? The motion is carried.

Subsection 16(6): Mr. Dhillon?

Mr. Vic Dhillon: I move that subsection 16(6) of the bill be amended by striking out "48" in the formula and substituting "24".

The Chair (Mr. Grant Crack): Thank you, Mr. Dhillon. Any further discussion on the motion?

Mr. Jim McDonell: Maybe an explanation?

Mr. Vic Dhillon: Yes. This, again, is bringing it from 48 months to 24, also to align Bill 60's cancellation formula with the national code.

Mr. Jim McDonell: So it's just limiting—the bill, as it was written, did not include the 24-month period, and this brings it down to agree with the CRTC?

Mr. Vic Dhillon: Yes.

Ms. Dipika Damerla: It was 48, though.

Mr. Jim McDonell: Yes.

The Chair (Mr. Grant Crack): Thank you. Any further discussion? There being none, I shall call the question to a vote. Those in favour? Any opposed? Carried.

Section 16, subsection 16(7): the opposition. Mr. McDonell?

Mr. Jim McDonell: I move that subsection 16(6) of the bill be amended by striking out "48" in the formula and substituting "24"—oh, I'm sorry; 15 is what you read. Okay. I'm sorry.

Interjection: What page are we on?

The Chair (Mr. Grant Crack): So we're on page 16—

Mr. Jim McDonell: Okay. Sorry.

The Chair (Mr. Grant Crack): Subsection 16(7).

Mr. Jim McDonell: I move that subsection 16(7) of the bill be amended by striking out the definitions of "B" and "C" and substituting the following:

"B = the lesser of 24 and the number of months that have elapsed under the agreement until the cancellation, counting the final part of a month, if any, as a whole month,

"C = the lesser of 24 and the number of months in the term of the agreement, counting the final part of a month, if any, as a whole month."

The Chair (Mr. Grant Crack): Thank you, Mr. McDonell. Further discussion? Mr. McDonell.

Mr. Jim McDonell: Yes. These are two motions that are identical, and they bring us in line with the CRTC code, much like we did before.

The Chair (Mr. Grant Crack): Thank you very much. Any further discussion? There being none, I shall call the question to a vote. Those in favour? Any opposed? Carried.

We shall move on to subsection 16(7).

Mr. Vic Dhillon: We'll withdraw that.

The Chair (Mr. Grant Crack): Withdrawn. Thank you very much. That is it for section 16, as amended.

Shall section 16, carry, as amended? Those in favour? Any opposed? Carried.

We shall move on to section 17, subsection 17(1.1). Mr. MacLaren?

Mr. Jack MacLaren: I move that section 17 of the bill be amended by adding the following subsection:

"Pre-condition

"(1.1) If a consumer is entitled to receive payments under clause (1)(b), then despite subsection (1), the consumer may not commence an action mentioned in that subsection until the consumer files a complaint with the Commissioner for Complaints for Telecommunications Services Inc. and the commissioner rules on the complaint."

The Chair (Mr. Grant Crack): Thank you, Mr. MacLaren. Any further discussion? Mr. McDonell.

Mr. Jim McDonell: The regulation of the wireless telecoms is federal, and we should defer to the federal complaints commissioner before allowing action in Ontario.

1740

Moreover, action on the complaints of the CCTS will affect consumers throughout Canada, while action taken in Ontario will not. It's best to have the interest of all

consumers at heart and have the CCTS as the first port of call. It's a free process that carries more weight.

The Chair (Mr. Grant Crack): Thank you, Mr. McDonell. Any further discussion? Mr. Singh.

Mr. Jagmeet Singh: Thank you. I think one of the strengths of the bill is that you could take an action or you could commence action against a provider immediately if there was a problem, and I think that's more consumer protection, whereas having to go through someone else to get a ruling and then try to get a remedy is not protecting consumers as much. That's why I would oppose this motion.

The Chair (Mr. Grant Crack): Thank you. Any further discussion? There being none, I shall call the vote on the question.

Mr. Jim McDonell: Recorded vote.

The Chair (Mr. Grant Crack): Okay, there's a request for a recorded vote.

Ayes

Barrett, MacLaren, McDonell.

Nays

Damerla, Dhillon, Fraser, Sattler, Singh.

The Chair (Mr. Grant Crack): Three in favour, five opposed. The motion is defeated.

Section 17: That was the only amendment to deal with. Shall section 17 carry? Those in favour? Those opposed? Section 17 is carried. Thank you all.

Sections 18, 19, 20 and 21 did not have any amendments proposed. As such, with the committee's approval, we will do those inclusively. Shall those sections, 18 through 21, carry? Those in favour? Any opposed? They are carried, sections 18 through 21, inclusive. Thank you.

We shall move to section 22, clause 22(h) from the opposition. Mr. Barrett.

Mr. Toby Barrett: Chair, we have a motion on page 19. I move that clause 22(h) of the bill be struck out and the following substituted:

"(h) requiring a supplier under a wireless agreement to disclose in the agreement the means that the consumer can use to obtain advance notice, at a time that is reasonably close to the time at which the consumer accesses services that will result in a cost payable by the consumer in addition to the minimum cost, that the consumer's use of those services will result in the additional cost;"

The Chair (Mr. Grant Crack): Thank you, Mr. Barrett. Any further discussion? Mr. McDonell.

Mr. Jim McDonell: Our explanation is that as the bill stands now, it creates the power for a minister to mandate the implementation of a keystroke hardware and software system as mandatory for all carriers. Not only is such a regulation potentially unconstitutional due to the federal nature of telecoms and their operating infrastructure, it is a provision that tries to knock down an open door. There

are a lot of apps for all phone platforms ranging from free to \$5 that would monitor your voice, text and data usage and allow you to set up your own monthly billing cycles and quotas, and warn you when you're close to your limit. The CRTC code mandates a disclosure to the consumer that they need to monitor their usage and how to do it. This amendment brings us in line with that provision. It is, after all, an industry where consumers need to take some degree of responsibility for the use of devices and services. The applications market has already provided them with plenty of tools to do so.

As we heard from one of the providers here, some of these services can cost well into the millions of dollars. We are trying to promote some of the smaller companies to compete. Those types of costs spread over a small number really are counterproductive to competition. Sure, the large companies can do it, but then again, they have to pass that feedback on. It's something that's not done in the industry, as far as I understand.

The Chair (Mr. Grant Crack): Thank you very much. Any further discussion?

There being none, I shall call the question to vote.

Mr. Jim McDonell: Recorded vote.

The Chair (Mr. Grant Crack): A recorded vote has been requested.

Ayes

Barrett, MacLaren, McDonell.

Nays

Damerla, Dhillon, Fraser, Sattler, Singh.

The Chair (Mr. Grant Crack): That is three in favour and five opposed. The motion is defeated.

We shall move on to subsection 22(1). Mr. Dhillon.

Mr. Vic Dhillon: I move that section 22 of the bill be amended by adding the following clauses:

"(g.1) requiring a supplier under a wireless agreement to provide to the consumer, for a trial period that is specified in the regulation, all the services that the supplier is required to provide to the consumer under the agreement and governing the rights and obligations of the parties to the agreement with respect to the trial period, subject to subsection (2);

"(g.2) specifying the information that a supplier under a wireless agreement is required to include in a billing statement in respect of the agreement;

"(g.3) governing information and additional notices that a supplier under a wireless agreement is required to provide to the consumer, including governing information in respect of the consumer's usage of services provided under the agreement and costs for that usage and governing the time at which the supplier is required to provide the information and additional notices;

"(i.1) prohibiting a supplier under a wireless agreement from charging or accepting payment of any portion of an amount for the services described in subsection (3) if the portion exceeds an amount specified in the regula-

tion, unless the consumer has expressly consented to paying that portion;

“(i.2) governing the consent described in clause (i.1);”

Again, it’s to align the regulations to go along with the national code.

The Chair (Mr. Grant Crack): Thank you, Mr. Dhillon. Any further discussion?

Mr. Jim McDonell: Well, we’re against this because the CRTC already has it in their bill of at least 15 days and that the cancellation results in no charges if the usage is below a certain point. So we don’t see the need for this as it’s already covered.

The Chair (Mr. Grant Crack): Okay. Thank you. Any further discussion? There being none, I shall call the motion in question to a vote.

Mr. Jim McDonell: Recorded vote.

The Chair (Mr. Grant Crack): There has been a request for a recorded vote.

Ayes

Damerla, Dhillon, Fraser, Sattler, Singh.

Nays

Barrett, McDonell, MacLaren.

The Chair (Mr. Grant Crack): That is five in favour, three opposed. Motion is carried.

We shall move to subsection 22(2). Mr. Dhillon.

Mr. Vic Dhillon: I move that section 22 of the bill be amended by adding the following subsections:

“Cancellation during trial period

“(2) If a consumer cancels a wireless agreement during a trial period described in a regulation made under clause (1)(g.1), then, despite section 16, the date of cancellation cannot be later than the end of the trial period and the supplier shall not charge the consumer any cancellation fee and shall not demand, request or accept payment for the cancellation.

“Cap on charges

“(3) The services to which a regulation made under clause (1)(i.1) apply are,

“(a) the optional services under the agreement;

“(b) services for which the consumer is required to pay roaming or other charges for using the mobile device to access services under the agreement; and

“(c) all other services specified by the regulations.”

The same explanation as the previous one, Chair.

The Chair (Mr. Grant Crack): Okay. Thank you, Mr. Dhillon. Any further discussion? Mr. McDonell.

Mr. Jim McDonell: Yes. As with many of our other comments, it’s already covered under the CRTC code. We see having it handled in two different areas as confusing, and it leads to problems in enforcement.

The Chair (Mr. Grant Crack): Thank you, Mr. McDonell. Any further discussion? Then I shall call the motion in question to a vote.

Those in favour? Those opposed? Motion is carried.

That is it for section 22. Shall section 22, as amended, carry? Those in favour? Those opposed? Section 22 is carried.

Section 23: no amendments. Shall section 23 carry? Those in favour? Those opposed? Carried.

Shall section 24, the short title, carry? Those in favour? Carried.

Shall the title of the bill carry? Those in favour? Carried.

Shall Bill 60, as amended, carry? Carried.

Shall I report the bill, as amended, to the House on your behalf? Those in favour? Those opposed? Carried.

Madam Clerk, I believe that’s it.

I would like to thank all the members of the committee and legal counsel for their assistance in bringing this to fruition. It shall be reported to the House.

Thank you. We had eight minutes to spare. Good work. Have a great evening. The meeting is adjourned.

The committee adjourned at 1751.

CONTENTS

Wednesday 23 October 2013

Wireless Services Agreements Act, 2013, Bill 60, Ms. MacCharles / Loi de 2013 sur
les conventions de services sans fil, projet de loi 60, Mme MacCharlesG-301

STANDING COMMITTEE ON GENERAL GOVERNMENT

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Mr. Toby Barrett (Haldimand–Norfolk PC)

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Mr. Jack MacLaren (Carleton–Mississippi Mills PC)

Mr. Jim McDonell (Stormont–Dundas–South Glengarry PC)

Mr. Jagmeet Singh (Bramalea–Gore–Malton ND)

Also taking part / Autres participants et participantes

Ms. Marilyn Marshall, senior counsel, Ministry of Consumer Services

Clerk / Greffière

Ms. Sylwia Przewdzicki

Staff / Personnel

Mr. Michael Wood, legislative counsel

G-21



G-21

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Official Report of Debates (Hansard)

Monday 4 November 2013

Journal des débats (Hansard)

Lundi 4 novembre 2013

Standing Committee on General Government

Employment Standards
Amendment Act
(Leaves to Help Families), 2013

Comité permanent des affaires gouvernementales

Loi de 2013 modifiant
la Loi sur les normes d'emploi
(congrés pour aider les familles)



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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Monday 4 November 2013

Lundi 4 novembre 2013

The committee met at 1402 in committee room 2.

SUBCOMMITTEE REPORT

The Vice-Chair (Mrs. Donna H. Cansfield): The Standing Committee on General Government is now sitting.

The first item on the agenda is the Standing Committee on General Government subcommittee report on committee business. Ms. Damerla.

Ms. Dipika Damerla: Your subcommittee on committee business met on Wednesday, October 30, 2013, to consider the method of proceeding on Bill 21, An Act to amend the Employment Standards Act, 2000 in respect of family caregiver, critically ill child care and crime-related child death or disappearance leaves of absence, and recommends the following:

(1) That the committee hold public hearings on Bill 21 on Monday, November 4, 2013, at Queen's Park, during its regular meeting time.

(2) That the Clerk of the Committee, with the authorization of the Chair, post information regarding the committee's business with respect to Bill 21, in English and French, on the Ontario parliamentary channel, on the Legislative Assembly website and with the CNW newswire service.

(3) That interested people who wish to be considered to make an oral presentation on Bill 21 should contact the Clerk of the Committee as soon as possible.

(4) That the Clerk of the Committee, in consultation with the Chair, be authorized to schedule witness presentations on Bill 21 as the requests are received, on a first-come, first-served basis.

(5) That presentations be scheduled in 20-minute time slots and that groups and individuals be offered five minutes for their presentations, followed by up to 15 minutes for questions by committee members—five minutes per caucus.

(6) That the deadline for receipt of written submissions on the bill be 5 p.m. on Monday, November 4, 2013.

(7) That the research officer provide the committee with a summary of witness recommendations as soon as possible on Tuesday, November 5, 2013.

(8) That amendments to the bill be filed with the Clerk of the Committee by 4 p.m. on Tuesday, November 5, 2013.

(9) That the committee meet on Wednesday, November 6, 2013, during its regular meeting time for clause-by-clause consideration of the bill.

(10) That the committee Clerk, in consultation with the Chair, be authorized, prior to the adoption of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

Your subcommittee met further to consider the method of proceeding on its standing order 111 study relating to the auto insurance industry, and recommends the following:

(11) That the committee meet on Monday, November 25, and Wednesday, November 27, 2013, for the purpose of continuing its study.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much. Any errors and omissions? Seeing none, all those in favour of the report of the subcommittee? Thank you. It is passed.

Ms. Dipika Damerla: Chair, I'd like to move a motion.

The Vice-Chair (Mrs. Donna H. Cansfield): Could we deal with the agenda first and then we'll put the motion at the end?

Ms. Dipika Damerla: Okay.

The Chair (Mrs. Donna H. Cansfield): Thank you very much.

EMPLOYMENT STANDARDS

AMENDMENT ACT

(LEAVES TO HELP FAMILIES), 2013

LOI DE 2013 MODIFIANT

LA LOI SUR LES NORMES D'EMPLOI

(CONGÉS POUR AIDER LES FAMILLES)

Consideration of the following bill:

Bill 21, An Act to amend the Employment Standards Act, 2000 in respect of family caregiver, critically ill child care and crime-related child death or disappearance leaves of absence / *Projet de loi 21, Loi modifiant la Loi de 2000 sur les normes d'emploi en ce qui concerne le congé familial pour les aidants naturels, le congé pour soins à un enfant gravement malade et le congé en cas de décès ou de disparition d'un enfant dans des circonstances criminelles.*

ALZHEIMER SOCIETY OF ONTARIO

The Vice-Chair (Mrs. Donna H. Cansfield): The second item on our agenda is the Alzheimer Society of

Ontario. If you would like to come forward, please, and if you would state your name for Hansard. Also, I'll give you a heads-up at one minute and then we'll start the rotation with the New Democratic Party. Thank you very much. Please proceed.

Ms. Delia Sinclair: Thank you very much. My name is Delia Sinclair, and I work at the Alzheimer Society of Ontario.

Today, 200,000 Ontarians have dementia. In 2020, this will reach 255,000 people. One in five Ontarians care for a family member, and this contributes to more than 70% of the total caregiving needs. This is especially true for caregivers of people with dementia. Greater demands are placed upon dementia caregivers than those with other health conditions, and the lack of support can lead to negative consequences, such as depression, sleep deprivation, mortality and increased risk of hospitalization.

The Alzheimer Society would like to recognize the commitment this government has made to helping older adults living with dementia and their families through the reintroduction of Bill 21.

We support the goal of this bill, which is to help caregivers maintain their current job status while providing care to someone with a serious medical condition. In order to ensure that caregivers who truly need this type of leave are able to access it, we are urging the following amendments to be made:

First, with regard to the term "serious medical condition": The legislation allows for leave in the event of a serious medical condition, but the Alzheimer Society of Ontario would recommend expanding and defining this term to include what types of conditions qualify.

Our concern is whether dementia would be considered a serious medical condition, or at what stage in the disease process it becomes a serious medical condition. What about other neurological conditions or other chronic conditions? We feel that an expansion of this will assist caregivers to know if and when they qualify for leave and will also assist qualified health practitioners when providing that medical certificate.

The legislation still reads that, "An employee may take a leave under this section only in periods of entire weeks." We would recommend that the government consider allowing flexibility in this leave period. As you know, caregiving is unpredictable, and needs rarely conform to week-long increments. It would be more helpful to caregivers if they could bank unused days instead of having to forfeit days if they don't require a full week.

With regard to the medical certificate, we would recommend adding an amendment to waive the costs of securing that certificate. Our caregivers have told us that the cost is around \$50, and for many this is prohibitive. Without the ability to afford a medical certificate, many caregivers will not be able to access this leave.

Finally, with regard to qualified health practitioners, currently right now only those qualified to practise medicine can provide a medical certificate, and this is

required for the leave. We would recommend expanding the definition of "qualified health practitioner" to include representatives from regulated bodies who are part of the circle of support, including registered nurses, registered social workers, home care case managers and disability case managers. Very few doctors provide house calls, so allowing other regulated health professions to sign medical certificates would reduce the need to have the person with dementia travel to a doctor's office. For people already receiving in-home care support, not having to travel to a doctor's office can be a major stress reducer.

Older Ontarians wish to remain at home for as long as possible, and many caregivers wish to continue providing support, but they do need help. Knowing that their job is protected while they can provide this care is the first step to closing the gap in the Employment Standards Act. Let's ensure that caregivers who truly need access to this leave are able to take it by removing the existing barriers seen in Bill 21.

Thank you for inviting me here today. If you have any questions, my contact information is on the back of our submission.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much, Ms. Sinclair, for your presentation. We'll start the rotation with the New Democratic Party.

1410

Mr. Taras Natyshak: Thank you very much, Chair.

Thank you very much, Ms. Sinclair, for your presentation. I appreciate your comments. I appreciate you being here today to speak on this.

It's a pretty interesting bill. As new Democrats, we've seen it—obviously, we do our due diligence on bills, as all parties do before they reach the floor of the Legislature. We analyzed its policy effectiveness. Right here, in the column, I've got it as being medium, and I would actually say that that's a little bit high in terms of its effectiveness. At its basic level, what it really simply does is protect that employee from being fired from their employment, should they decide to deliver care to a loved one.

I'm wondering where you would place the effectiveness of this bill as an overall way to start to deliver a different level of care in home care and bringing in family members. Other than the employment side of it, the functional and practical, and the mechanics of the bill, where would you see it in terms of being effective, or its effectiveness?

Ms. Delia Sinclair: To me, clearly, this is a first step in closing a glaring gap in the act, but this isn't the be-all and end-all of what caregivers need. In-home supports are extremely important and something that we, at the Alzheimer Society, focus on trying to increase the amount of not just in-home support, but flexible support, so basically patient- or family-controlled support: when they need it, how they need it. But this is one step. This is not the be-all and end-all.

Mr. Taras Natyshak: Of course, any family member seeking leave to provide care for a loved one will un-

doubtedly be faced with a higher level of financial burden just on the sheer sake that they're taking on another job, really.

Within Bill 21, there are no provisions to support family members financially or to even acknowledge that there is a financial burden placed on people. What would the Alzheimer Society say on that part? What's your position on financial support?

Ms. Delia Sinclair: Our idea would be, for people who are able to take this leave, if there could be some sort of tie-in with either employment insurance or some sort of payment in a similar sense. That would be the ideal in this situation, because you're taking an unpaid leave from work and you still have bills to pay and you still have caregiver fees that you have to pay with regard to providing care, so yes.

I don't know for sure whether the week-long increments were to try and tie that in on the federal level, but as I see it right now, it would be more beneficial to be able to bank those days.

Mr. Taras Natyshak: You spoke about the serious medical condition: What qualifies as a serious medical condition? And specifically within Alzheimer's, it's an eventual degradation of that patient's condition. But yet, family members require support right from the outset of a diagnosis, I would imagine. Things in their lives have to change. I'm wondering if you could speak about what thresholds you would see, or what you don't see in this bill, that would address that concern that I think you've already expressed.

Ms. Delia Sinclair: That concern comes from our clients that have told us they've had issues with accessing insurance or other sorts of supports that are supposed to be in place because where they are in their disease progression is not severe enough, or they haven't hit some magic threshold that we're not aware of. We obviously want support from the get-go: when you have a diagnosis. Wherever you are in the disease process, there are concerns that need to be taken care of. The problem is that without it being clear, we don't know, and the issue we've come up against with insurance and other things is that exact situation—

The Chair (Mrs. Donna H. Cansfield): One minute.

Ms. Delia Sinclair: —where someone is unable to access what they should be able to.

Mr. Taras Natyshak: With one minute left—

Ms. Delia Sinclair: Sorry.

Mr. Taras Natyshak: No, it's my fault. I thought it was 15 minutes, but it's five-minute rotations, right, Chair? Five, five and five is what we're doing. My apologies.

The flexibility, the one-week blocks: You've alluded to the fact that caregivers need, maybe, a little bit more flexibility. It might only be one day out of the week that they need to be there to provide care. What would you say to that concept in terms of building in some more flexibility?

Ms. Delia Sinclair: Our recommendation is to be able to bank unused days. If you have to take one to two days

out of a week, you should be able to bank the remaining three working days. If it's a caregiver of someone with a serious medical condition, they're probably going to need that time later on. I almost guarantee they're going to need that time.

Mr. Taras Natyshak: I appreciate it. Thank you.

The Vice-Chair (Mrs. Donna H. Cansfield): Ms. Scott? You have no questions?

Ms. Laurie Scott: Oh, I just thought you were going that way.

The Vice-Chair (Mrs. Donna H. Cansfield): No, we're going this way.

Ms. Laurie Scott: Well, that's different. Okay.

Thank you very much for appearing here today. I had a couple of questions. One was about the medical certificates. I see what you're saying; a general practitioner basically charges \$50.

Ms. Delia Sinclair: Yes.

Ms. Laurie Scott: Is there another way that we could do it without incurring cost? There is going to have to be some—I don't want to say "proof," but you know what I'm saying. Is there another idea that you have that could—

Ms. Delia Sinclair: Yes. It's not so much that the idea of a medical certificate is the problem; it's just thinking through the actual—at the end, the person getting the certificate paying for it. If there's some way to waive that for a person if they're seeking to take one of these leaves—we understand that you need to have a medical certificate, but it's the cost that goes along with it that's the issue.

Ms. Laurie Scott: No, I hear what you're saying. I'm just trying to think about something to address this.

Ms. Delia Sinclair: Yes. I don't know if there's—

Ms. Laurie Scott: If you have any ideas, please send them. With Alzheimer's, how is it treated now when you get home care? Can you just give me a description right now? I've heard from some people that it's a bit of a grey area, that they qualify to get home care hours. Maybe Saint Elizabeth can answer this too.

Ms. Delia Sinclair: Yes, I think some of our other speakers might be better at describing that, but—

Ms. Laurie Scott: But in general, do you hear that?

Ms. Delia Sinclair: It does depend on the person, their diagnosis, where they are in the disease and what their need is. People progress at different rates and different severities, so it varies greatly.

Ms. Laurie Scott: Is there any type of terminology where it becomes—there's early dementia and then, of course the later stages—

Ms. Delia Sinclair: Yes. The level of cognitive impairment is usually separated into mild, moderate and severe, depending on the person's scores.

Ms. Laurie Scott: Would you have the answer when you say "at what point dementia is considered a serious medical condition"? Is there a term that's applied to that? Does the doctor decide at this point? What goes on right now, whether it's decided as a serious medical condition?

Ms. Delia Sinclair: From our perspective, once you receive a diagnosis, to us that's a medical condition that needs support, but physicians may term that differently. I don't have a threshold that is universal.

Ms. Laurie Scott: Okay. That's what I was wondering: As you're drafting bills and regulations, sometimes the actual terminology that goes across the medical spectrum, so that we could all be on the same page and there are not delays in qualifying people.

I heard what you said about the banking of the days—that you could bank unused days. That's a very good point. That's why we'd like to have some committee and get back to these glitches that we could maybe refine more.

Qualified health practitioners: That's quite a large group that you've got. Do you have nurse practitioners in here? Just save me reading here.

Ms. Delia Sinclair: Yes, any regulated health profession.

Ms. Laurie Scott: Any regulated. Okay.

Ms. Delia Sinclair: They're in there. I just didn't—

Ms. Laurie Scott: Okay.

Ms. Delia Sinclair: But yes, they would be helpful as well.

Ms. Laurie Scott: Okay. In your experience, you feel like social workers and—the others would be nurses, pretty much. Social workers wouldn't have—

Ms. Delia Sinclair: Yes. They're usually nurses or social workers.

Ms. Laurie Scott: Oh, usually nurses or social workers?

Ms. Delia Sinclair: No, no. I'm just saying—

Ms. Laurie Scott: The rest are pretty much nursing backgrounds.

Ms. Delia Sinclair: Yes.

Ms. Laurie Scott: Social workers, in that section—do they qualify enough, do you think?

Ms. Delia Sinclair: Yes, just because, depending on who it is, it's either—case managers often have a social work background, a regulated health professional background.

Ms. Laurie Scott: Okay. That's great feedback. Thank you very much. I think that's all the questions I have, Chair.

Thank you for your time. Thank you for coming here today.

Ms. Delia Sinclair: Thank you.

The Vice-Chair (Mrs. Donna H. Cansfield): Mr. Dhillon?

Mr. Vic Dhillon: Thank you very much, Chair. Thank you for appearing before the committee today. Can you tell us what impact this bill would have in terms of the quality of care that family members would be able to give to their loved ones and, if you could, provide some examples?

1420

Ms. Delia Sinclair: Around the quality of care?

Mr. Vic Dhillon: Yes, with respect to this bill.

Ms. Delia Sinclair: Okay. Well, I think the challenge around giving a quality-of-care statement is that this bill is about allowing them to take time off from work. It's not really talking about the extras, of course, that they would need with regard to home care or transportation if they are unable to provide care in that sense. It would allow a little bit of peace of mind, knowing you have your job waiting for you when you get back, but there are still issues around adequate home care and what people need at home and when they receive it that would hinder my ability to say anything about quality.

Mr. Vic Dhillon: Now, it's commonly known that family members who provide care, give care to their sick loved ones, experience quite a bit of stress at the workplace. How do you feel this bill would impact in terms of alleviating some of that stress?

Ms. Delia Sinclair: I think having some of these leaves in place would definitely take off the stress of worrying about whether I have to—do I choose between having a job or caring for my loved one temporarily? For our population, it's eight weeks off, which is helpful. But with a chronic condition, sometimes that's not enough. That said, it is a start and it's something that would relieve that stress, especially in the transition periods between a person who is able to stay in the community and a person who may need to go somewhere else, whether it's a retirement home or long-term-care home.

Mr. John Fraser: Thank you for your presentation. Just in terms of the progress of the disease, when you take a look at this piece of legislation, I think you already answered my question, which was really quite—it works best in those situations where you're in transition, moving from community to—

Ms. Delia Sinclair: Yes, that's one of the areas I can see this really helping. There's also near the beginning, when there's a large number of doctors' visits. Getting a diagnosis is not a simple process. So that would also be an area where I can see this would be helpful for a person.

In the later stages, when a person is possibly already in a home, a leave like this could help if there is some sort of extenuating circumstance or something happens that they need to be there for.

Mr. John Fraser: It works really well for those points that are points of transition and change or that point of increased need, right?

Ms. Delia Sinclair: Yes, I can see that as more beneficial in the progression, for sure.

Mr. John Fraser: Thank you.

Ms. Dipika Damerla: I just wanted some clarification around the banking. What you're really saying is, banking within the year, right? So you're saying, instead of taking a whole week, take two days and—

Ms. Delia Sinclair: Yes, yes, exactly. So it would be two days, and then you would have three days in your bank, similar to, I guess—at least at my work, you have a vacation bank and so you take some days out of your vacation bank and the rest are there.

Ms. Dipika Damerla: Yes, but to me a bank means you can carry them forward, so there's a big difference. All you're saying is, you want more flexibility, right?

Ms. Delia Sinclair: Yes, more flexibility; that's what we're saying.

The Vice-Chair (Mrs. Donna H. Cansfield): Are there any further questions? Seeing none, thank you very much for your presentation.

Ms. Delia Sinclair: Thank you very much, everyone.

MARCH OF DIMES CANADA

The Vice-Chair (Mrs. Donna H. Cansfield): Our next presenter will be the March of Dimes Canada. Thank you very much for joining us this afternoon. If you could please introduce yourself for Hansard, and your area of responsibility. You have five minutes for a presentation, and then rotation. The next will be the Progressive Conservative Party. I will just say "one minute"; it gives you an idea of timing. Please start.

Ms. Andria Spindel: Thank you for having us here today, Madam Chair and honourable members. My name is Andria Spindel. I'm the president and CEO of March of Dimes Canada, and with me is Steven Christianson, who is the national manager of government relations and advocacy for our organization. Probably most of you know something of our history, so I won't go into a lot of detail, but I am providing you with our annual report, as well as our presentation today.

March of Dimes has been around since 1951 and is one of Canada's largest service organizations and an advocate for people with disabilities. We're a resource for all Canadians requiring disability supports. We have a wide range of services. Many of our consumers utilize more than one service. We are solutions for independence, and our services include employment, tenant services, assistive devices, home and vehicle modifications, peer support and other programs. Last year, we provided 2.25 million hours of service to over 50,000 Canadians, the majority of whom are in Ontario.

Bill 21, the caregiver leave bill, provides care and personal support for a loved one, and we think it's a very excellent step forward. This is the first time that we've officially seen a provision for recognizing informal caregivers, the work they do and the value of the contributions they make. Providing for the protection of an employee when providing care for a loved one provides great relief to what is otherwise a huge emotional burden for an individual who is already worrying about the care that is required for their loved one. While this bill only provides unpaid leave, it's reassuring to know that this government is in negotiation with the federal government to better coordinate employment insurance-related benefits and to hopefully see a full EI benefit in the future for those who qualify under this bill. This will be critical for tens of thousands of caregivers throughout the province.

As you all know, the current personal emergency leave, providing employees up to 10 unpaid job-protected days per calendar year, is sadly insufficient when it

comes to caregiving. That only applies to employees and workplaces with 50 or more staff. This bill provides a welcome improvement for employees throughout the province. It's also noteworthy to point out that the bill would protect full-time and part-time employees, as well as those on temporary contracts.

We're all affected by the issues of caregiving in our society. Statistics Canada tells us that we're going to have 43% more seniors 10 years from now and twice as many seniors 20 years from now. While these figures are not new to most of you in the room, it's important to understand the relationship between aging and disability, not just for those who live with a disability and grow older, but those who age into a disability. So the challenges of and benefits related to informal caregiving are much greater than what appears on the surface of the statistics related to an aging population.

Some 22% of Canadians—that's already one in five—currently juggle caregiving responsibilities with all the other responsibilities of work and family life, and that number will only grow.

What about the value of caregiving? According to the Ontario Caregiver Coalition, caregiving contributes between \$24 billion and \$31 billion annually to maintaining the health of Canadians. This bill is a great step forward in recognizing and helping to support caregivers.

Since hosting two international conferences on caregiving in Toronto—one in 2007 and one in 2011—we at March of Dimes Canada are acutely aware of the economic contribution of informal caregivers and, equally, the enormous sacrifice that they make, both financially and personally. This bill acknowledges everyone's responsibility and supports families with care-related concerns by sharing the burden.

Protecting the caregiver's job will relieve some of the psycho-social burden. It will defer and alleviate a financial crisis and benefit the caregiver and the care recipient. Employers will have some new business costs and concerns, but will realize a healthier, happier workplace. There will be savings if staff can return to a protected job and have the support of management and their colleagues. Employers will experience a net benefit with less stressed workers who perform and are more loyal to their company.

Time off means fewer physical and psychological illnesses for the employee. Holding a position for them means the company will not have the same level of recruitment costs and retraining costs.

I'm happy to answer any questions about our statement—just one last consideration.

Mr. Steven Christianson: If we have any recommendations on this—and I'll be very brief—the one item in the bill that we would urge you to consider relates to flexibility. We would ask, why is it written into the bill that the employee will have to take entire weeks at a time? Caregiving fluctuates, and I think most of us realize that, sometimes requiring half a day but sometimes only a few days. We not only work in this field but we've experienced that in our home lives and our family lives as well. So we do speak from personal experience.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much for your presentation. We'll start the rotation with Ms. Scott.

Ms. Laurie Scott: I was just going to say, I'll just donate some of my time. You finish off. You carry on.

Mr. Steven Christianson: Thank you very much. So, March of Dimes Canada has supported the premise of the bill, not just in this session of the Legislature, but in the last one when it was originally introduced. We're eager to inform our 50,000 consumers—that's 50,000 households, actually—about the new options available when this bill becomes law, and it's only that measure of writing some flexibility into Bill 21 that we would consider an important note.

Thank you very much for the extra time.

1430

The Vice-Chair (Mrs. Donna H. Cansfield): Go ahead, Ms. Scott.

Ms. Laurie Scott: Thank you very much for presenting here this afternoon and thank you very much for all the work that March of Dimes does in our communities in helping patients and families. I think we've heard not just today, but also before, about the flexibility. I was a nurse in my other life before this job, and there's no question you need flexibility. Nothing's predictable. Emergency appointments come forward; things happen in families. It's just the reality that exists out there.

It's kind of similar to what the Alzheimer Society has brought forward too so far today: an amendment to adjust the flexibility in the time is what you see as the most important thing to change right now.

Ms. Andria Spindel: It's really the only item that we think would improve it.

Ms. Laurie Scott: I don't think any of us probably disagree. I'm not speaking for everyone, but it seems to make the most sense that is occurring.

I don't think I have many more questions for you—unless there's anything you'd like to add, because I have a few more minutes. If there's something you didn't get in that you wanted to bring up or say, you can certainly have that opportunity.

Ms. Andria Spindel: No. I had actually thought somebody here might say, "What about the employer's concerns because of the absence of workers?" I wanted to state that because we are a large employer, we as an employer recognize that this is a contribution that everybody in society has to make. Whether the employers have a little bit of extra cost or the families do, there's a shared burden; I wanted to stress that. We've thought about it, we talked about it with our HR people, and we think that you actually save money when you allow people to take this time, because they're not productive when they're worrying and stressed.

Ms. Laurie Scott: Absolutely. Thank you very much for your time today.

Ms. Andria Spindel: Thanks.

Mr. Steven Christianson: Thank you.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much.

Mr. Dhillon.

Mr. Vic Dhillon: I believe my colleagues have a question.

Mr. John Fraser: Thank you very much for your presentation and thank you for all that you do. I wanted you to elaborate: You said that temporary vacancies can be turned into a positive. Maybe you've just done that, but if you want to elaborate on that or—

Ms. Andria Spindel: There are several ideas. When you have a vacancy and you know it's going to be so many weeks, you often have an opportunity for somebody in the company to take up some extra responsibilities and learn something. I don't always see that as a negative. It's stressful, sometimes, when somebody is gone, but we've had lots of experience with that. We're experiencing it right now with one of our employees who's battling cancer herself. She was off already to take care of three people in her family who were sick, and then she got diagnosed. We don't close the door behind her and say, "Well, she's done." We've actually shared responsibility and given everybody a little more to do for a little while as we try to provide her and her family with support.

So I have enough personal experience to believe it's the right thing to do and that companies can manage and find creative solutions. If you actually go out and recruit, there's always an expense. There are emergencies that are hard to plan for, but oftentimes you can, and take the time to do something on a temporary basis. It's a productive time.

The Vice-Chair (Mrs. Donna H. Cansfield): Ms. Damerla?

Ms. Dipika Damerla: I just wanted to thank you, Andria and Steven, for the good work you do, because in my riding of Mississauga East–Cooksville I work very closely with the CCAC. They often talk about the services you are delivering, and I think now you're also delivering the free exercise classes for seniors in many places?

Ms. Andria Spindel: That's right.

Mr. Steven Christianson: Yes.

Ms. Dipika Damerla: I just wanted to thank you very much for that.

Ms. Andria Spindel: Thanks to the government for allowing us to do that.

The Vice-Chair (Mrs. Donna H. Cansfield): Are there any further questions?

Mr. Vic Dhillon: I just have something brief. Would you say that, for the most part, you're in support of this bill?

Ms. Andria Spindel: Yes, we are.

Mr. Vic Dhillon: Okay. Thank you very much.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much.

I don't know who's speaking—Ms. Sattler?

Ms. Peggy Sattler: Thank you also for the presentation. I just wanted to ask if you might care to elaborate a little bit. You talked about some of the inadequacies of the current personal emergency leave that provides employees with up to 10 unpaid days per calendar year. I

wonder if you could tell us about some of the stories you may have heard from the families that you've worked with about: Have employers been resistant to providing that leave? Has it created issues for the families when they're trying to access that leave? How many families have you dealt with who aren't even eligible for that leave because they work in a firm with 50 or fewer staff?

Ms. Andria Spindel: The first thing I'd say is that the limitation on time becomes the first issue because it's often an unpredictable situation when you take off in an emergency. There is a fear people have that if they are away one day more, they might lose their job, that people are not sympathetic to the fact that they've taken that time. I haven't heard so much about the size of the company; that's a good question. I don't know if Steven could speak to that.

Mr. Steven Christianson: In terms of size of the company, no, we don't have a lot of feedback other than strictly anecdotal that, when people have learned that it only applies to a certain class of employer or workforce, it just seems, from their perspective, rather unfair. Aging and disability, as Andria has pointed out, affect everybody in this room, every family in this room. The challenge of having that eligibility defined by the size of the workplace is a little difficult for some people out there to stomach.

Ms. Peggy Sattler: So you see that this bill addresses those two limitations: One is that it gives access to so many more days, and the other is that it applies to everyone. Thank you for that.

I also wanted to ask—the previous presenter had talked about a definition around “serious medical condition.” In the work that you do with the families you serve, do you see that as being important to—

Ms. Andria Spindel: You're saying to define the circumstances that lead to informal caregiving?

Ms. Peggy Sattler: What is a serious medical condition, yes?

Ms. Andria Spindel: I don't know that we've worked on that, although I thought that might come up. I think that is something that probably needs to be spelled out. Right now, it's up to the individual to define for whom they're providing care and how serious it is. We certainly have been very supportive, because I can't think of any circumstance where we've had doubt when somebody says that some family member is ill or has been in an accident or whatever.

Ms. Peggy Sattler: You mean as employers yourself?

Ms. Andria Spindel: Yes. So I don't know how that would best be defined.

One thing I did want to comment on, just having heard a little of the discussion when we came in about banking: We are not recommending the banking, but I would say that it should not necessarily be a cumulative thing. I think it pertains to the situation. When you need it, you need it. I'm not sure that I'd recommend that you bank it any more than we allow banking of sick time. We believe that sick time that's available in our company is there for when you're sick, not just stored up for a vacation. So I wouldn't be recommending that.

Ms. Peggy Sattler: Mr. Christianson, do you have anything more to say about the definition of “serious medical condition”?

Mr. Steven Christianson: Given that a qualified medical practitioner is written into this to have to provide certification of the circumstance, we think that's adequate at this point. Refining the definition: We find that's something with almost every statute out there, that definitions certainly can be refined. Perhaps that can be looked at, six months and a year after this, when the bill is revisited. But I think at this stage, it's a great step forward.

Given that it was introduced in a previous session, we'd really encourage: Let's get this benefit out there.

Ms. Andria Spindel: And allow it to be the medical practitioner's recommendation.

Ms. Peggy Sattler: Do you have questions?

Mr. Taras Natyshak: How much time, Chair?

The Vice-Chair (Mrs. Donna H. Cansfield): Thirty seconds.

Mr. Taras Natyshak: I don't think I could get it out in 30 seconds. Thank you for your presentation.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much for your presentation.

ONTARIO HOME CARE ASSOCIATION

The Vice-Chair (Mrs. Donna H. Cansfield): Our next presenter is the Ontario Home Care Association. Welcome. If you could please introduce yourself and your status. We'll start with a five-minute presentation; I'll just say “a minute” when you're close to the end. Then we'll start the rotation with the Liberals. Please go ahead.

Ms. Sue VanderBent: Thank you. My name is Sue VanderBent. I'm representing the Ontario Home Care Association today.

The role of family caregivers is very important in society as the population ages and more people with chronic diseases or conditions related to aging choose to receive care at home. Family caregiving responsibilities are onerous in our society, and they can typically interfere with the life course of a family. Often, families are too upset and distressed to go to work, and they have to reduce their contributions in other areas.

1440

In Ontario today, the publicly funded home care system looks after 600,000 people a year, and that number is growing. All of those individuals have family members who surround them. In my role as CEO of Ontario Home Care Association, I can tell you that everybody has a story about looking after someone they love.

The Ontario Home Care Association supports Bill 21, and we think it's an important step in acknowledging the importance of family caregivers. In that spirit, we offer three recommendations that we hope would strengthen the bill:

One, we think it's very important to increase the investment in home care, the publicly funded system, in

order to better support family members, who provide the majority of care—and they really do provide the majority of care—in the home. In the formal system, we come in and out to do something—give a bath, change a wound dressing—but for the most part, it is the family that is there, looking after someone.

In that light, some specific actions that we would suggest are an acceptable funding formula that informs Ontarians as to the amount of home care that they're entitled to through a publicly funded system, and looking at establishing home-based respite programs in order to minimize the disruption on a family.

The second recommendation we have is to enable the family contribution through the establishment of financial levers, such as establishing savings vehicles that can incent Ontarians to set aside funds to meet their needs for care at home as they age. The fact is, we know that about 150,000 Ontarians are already purchasing about 20 million hours of care a year, and this is happening mostly because they are topping up the publicly funded system. We certainly believe we have to continue to accelerate our investment in the publicly funded system, but depending on how society moves forward, we simply have to help people take a look at how they might also be able to save for that likelihood.

The last one is to improve access to support by providing more flexible leaves. In terms of this particular bill, we've heard some of these comments before from my colleagues: allow more flexibility in the leave period; allow working caregivers to accrue unused time; clarify the definition of a serious medical condition; increase the eligibility to those with chronic and/or episodic conditions, such as Alzheimer's, HIV, COPD; perhaps look at functional need as opposed to a clear diagnostic need; and expand the definition of a qualified practitioner who can determine eligibility for family caregiver leave.

In conclusion, I'd like to thank you for taking time to look at this bill and to enhance the role of family caregivers. In Ontario, the home care system could not operate without family caregivers. While it is a personal and a familial relationship that we have, it can also be a very difficult time, and we believe that compassionate, caring employers will want to support their staff to be able to look after their loved ones. Thank you.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much for your presentation.

Mr. Dhillon.

Mr. Vic Dhillon: Thank you very much for appearing before the committee. Do you know of any examples—well, obviously, there must be many—but do you know about caregivers who may wish that they had more time to bridge the gap between the personal emergency leave—which I understand is 10 days, to take care of a loved one, especially when the situation is that it appears death may be imminent?

Ms. Sue VanderBent: Yes.

Mr. Vic Dhillon: For family caregivers who provide care to a sick loved one, how does it impact them in terms of stress and other things in their daily lives? Could you give us some indication of that?

Ms. Sue VanderBent: I think when one is faced with that kind of situation, it crowds out every other interest that you have. You can't really concentrate on much else but looking after that loved one, especially in a situation where someone is dying.

We know that Ontarians do provide the majority of care for their loved ones who are in the process of dying. That's why this leave is very important. The only thing is, we don't die on a schedule. We can be very, very ill; we can get a little better. The dying process is not necessarily a process that goes from A to B and simply happens. It can be a long-term process or not as short as we would think, because of the technologies that we have, because of the medications that we have. It's a unique situation and something that every family goes through differently.

Mr. Vic Dhillon: Thank you.

The Vice-Chair (Mrs. Donna H. Cansfield): Are there any further questions? Thank you very much.

Next is—I want to say “Taras.” Sorry.

Mr. Taras Natyshak: As long as I can call you Donna, Chair.

The Vice-Chair (Mrs. Donna H. Cansfield): Absolutely. Mr. Natyshak.

Mr. Taras Natyshak: Thank you, Chair. Thank you, Ms. VanderBent, for your submission. A couple of quick questions: I'd like to ask every delegation here today about what their thoughts are on building in some more flexibility in terms of the leave. What are your thoughts on that, briefly?

Ms. Sue VanderBent: As I said, half a day sometimes, to a working mom, can be really helpful. If you have to take somebody to an appointment, if you have to accompany someone to the hospital, if you have to meet someone in the ER, half a day is very precious. I would think that that kind of flexibility—if I had a whole week but I only needed half a day, I might very well want to just use that half a day. I think people do have loyalties all over the place: to children, to their work and to lots of places. I think that flexibility would really help those of us who do caregiving.

Mr. Taras Natyshak: We were concerned, when the bill was originally tabled, that although it addresses a gap in the Employment Standards Act, it won't necessarily have the grand amount of take-up that it potentially could have if those flexibility mechanisms were built in, if some financial support for folks who were looking to take leave was built in, whether as a stand-alone, as the province might submit, or whether it be attached to employment insurance benefits. What do you think the take-up ratio will be with the bill as it stands right now?

Ms. Sue VanderBent: I think an employee-employer relationship is a personal relationship. My sense is that we know when our employees or their families are in trouble. It's human nature to want to help one another. I think the take-up could be very good if employers and employees understand what is available and understand that there are discussions happening at the federal level to supplement income. I think that would also be supportive.

I think that time, in and of itself, is part of your contribution. As an employer, it would be very helpful to give your employee that, because probably, as other people have said, they aren't concentrating on work anyway. There's a real human issue in terms of the employer-employee relationship and their understanding of one another and their needs.

Mr. Taras Natyshak: You mentioned a financial savings vehicle that could be developed. Do you have any examples of where that exists anywhere in Canada or in any jurisdictions?

Ms. Sue VanderBent: Not in Canada, but certainly we have registered educational savings plans, and we have those types of savings plan so that we can start to—

Mr. Taras Natyshak: So, something like that?

Ms. Sue VanderBent: I have little children now. I want to save for their education. The reason we say this is because, too often, people just get into this situation. We really have to be honest about what it is society is affording and can afford and will afford in the future.

1450

Representing the Ontario Home Care Association, I can tell you that we are very grateful for all the increased investment by the government, but it's very, very hard to take money out of existing health care organizations or stop money and grow another one because of the sunk costs—

The Vice-Chair (Mrs. Donna H. Cansfield): One minute.

Ms. Sue VanderBent: —because hospitals are looking after people and long-term-care people are looking after people. So what exactly do we do? And we know that the home care system is not a publicly insured service; it's publicly provided. So we know we do depend on the contributions of families.

We think it's important to start to help people think about that future eventuality.

Mr. Taras Natyshak: And outside of this bill, New Democrats, during the last budget session, proposed that the government ensure that there's a five-day home care guarantee for all residents of Ontario after they are assessed. Do you see us moving closer to a five-day sort of threshold?

Ms. Sue VanderBent: Yes. The issue is that we want to give more people home care, and we want to make sure that they're not on a waiting list for home care.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much.

Mr. Taras Natyshak: Very good. Thank you.

The Vice-Chair (Mrs. Donna H. Cansfield): Ms. Scott?

Ms. Laurie Scott: Thank you. Oh, you can't leave—one more. I won't keep you long.

Ms. Sue VanderBent: I thought you were telling me to leave.

Ms. Laurie Scott: I won't keep you long.

Ms. Sue VanderBent: Sorry.

Ms. Laurie Scott: It's okay. Thank you for being here with us today.

I think that what you were just speaking about, with the setting money aside and the investments—that's mainly federal, I would take.

Ms. Sue VanderBent: I know.

Ms. Laurie Scott: That's okay, as long as you're talking to them, too. You make a very good point, and I've certainly been in the situation where I've been a major caregiver, and it's very hard and taxing on families. There's no question that we have to take a different approach and try to be more flexible.

When you talk, and I don't know if you know this, about employers, in general, do you think—I know a lot of employers that, of course, are compassionate. They have good employees; they would like to keep them and to have that flexibility. But what percentage, if you know, roughly, would you give to that type of employer as opposed to those that aren't as flexible with employees in certain caregiving situations? Do you have any idea? I just wonder what it is.

Ms. Sue VanderBent: I'm really not sure. I would hesitate to—

Ms. Laurie Scott: Because most of the employers that I know of are pretty flexible, and everybody tries to accommodate pretty well.

Ms. Sue VanderBent: And there's expectation that we accommodate workers on lots of issues related to their own health and the health of others. As I think was said before, we all could face some illness or disability.

Ms. Laurie Scott: Absolutely.

Ms. Sue VanderBent: We are not immune from that problem ourselves.

Ms. Laurie Scott: Okay, that's fine.

The definition that we were going to bring up again about serious medical conditions—do you have any thoughts on that? A little bit more of—

Ms. Sue VanderBent: Well, one of the things that we were talking about was, is it something like HIV or COPD—you know, congestive obstructive lung disease—which are long-term kinds of illness, or perhaps more functional needs like the March of Dimes were talking about? If you have a lot of functional problems but you don't necessarily have a clinical diagnosis that would lend itself to being called a serious medical condition, it might be something to look at that might strengthen the bill so that someone who is looking after someone with some serious functional deficits could be just as needy as someone who has HIV.

Ms. Laurie Scott: Okay. So “functional” seems to be a word that's a theme that might be coming through.

Ms. Sue VanderBent: Yes. And I think that there are functional arrays of criteria that you could look at.

Ms. Laurie Scott: Okay. So then my other question is about determining eligibility and the list of who can and who can't. At the moment, it's obviously doctor-driven. The Alzheimer Society mentioned a few more professionals. Do you want to add anything more to their list? Do you want me to include registered nurses, social workers, home care case managers and disability case

managers? I mentioned nurse practitioners. Are there any more you would like to add, or—

Ms. Sue VanderBent: I think regulated health professionals report to a college, so the taxpayer and the public would feel that they were accountable. And you may want to think about whether or not those people have some sort of—I wouldn't necessarily want to say "training," but definitely criteria that they use to establish the status. You give them guidelines to work within, and you might want to have someone who is—I wouldn't call it "certified," but perhaps has some more parameters about how they would be able to do that. You might have one person who could do that kind of work. You put a little bit of a boundary around it, which is, I think, what you're asking: What kind of a boundary would you put around it that would make it a little more accountable to society, to say that this person had some training and the decision they are making was done within a framework of decisions around whether or not this could be considered a serious medical or functional condition?

Ms. Laurie Scott: Okay.

Ms. Sue VanderBent: That's helpful.

Ms. Laurie Scott: Yes. I just go back to my one case of advanced dementia, in which they couldn't get palliative care at home because the doctors wouldn't take that step. As an employer, you don't want everybody able to write the notes.

Ms. Sue VanderBent: That's right.

Ms. Laurie Scott: It's kind of trying to find that middle ground, is what we were asking.

Ms. Sue VanderBent: And you want the right person making that decision and you want similar decisions being made so you're not having decisions being made in one area that are very, very broad and in another area where they're very narrow. We'd really like to, I think, make it province-wide.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much for your presentation.

ONTARIO CAREGIVER COALITION

The Vice-Chair (Mrs. Donna H. Cansfield): Our next presenter is the Ontario Caregiver Coalition. If you could please introduce yourselves and give us your area of responsibility, and then we'll start with the NDP for the first rotation: Mr. Natyshak. Please go ahead.

Mr. Caphan Lieu: Thank you, and good afternoon. My name is Caphan Lieu. I'm the coordinator of public affairs for the Parkinson Society of Ontario. Joining me today is John Parkhurst. He is the chair of the board of the Parkinson Society, Central and Northern Ontario. As well, he is a caregiver to his wife, Margot, who has been living with Parkinson's for 23 years.

As member representatives of the Ontario Caregiver Coalition, we would like to thank the committee for providing us the opportunity to address you all today.

The Ontario Caregiver Coalition is a group of diverse organizations that work collaboratively to advance the interests of caregivers in the province. Membership

includes those from health charities, unions, academia, home care and community support agencies and, of course, informal and family caregivers.

The OCC commends the government for the reintroduction of the caregiver leave act under Bill 21 this past March. We recognize that the goal of this act is to help caregivers maintain their current job status while providing care to someone with a serious medical condition, allowing for unpaid time off work for up to eight weeks. We're also pleased to see the inclusion of leave of up to 37 weeks to care for a critically ill child.

In order to enhance the ability of this act to assist caregivers, we would like to see changes made to the following four areas:

The first is the term for "serious medical condition." The legislation currently allows for leave in the event of a serious medical condition. The OCC recommends expanding and defining this term, which will not only assist caregivers to know if they qualify for leave, but also qualified health practitioners providing a medical certificate.

The second area is the issue of full-week periods. The legislation still reads, "An employee may take a leave under this section only in periods of entire weeks." The OCC recommends that the government consider allowing more flexibility in the leave period. It would be ideal for caregivers to bank unused days instead of having to forfeit days when they do not require a full week.

The third is the cost of medical certificates. The OCC recommends adding an amendment to waive the costs of securing a medical certificate. Our caregivers tell us that the cost is \$50, and for many, this cost is prohibitive. Without the ability to afford a medical certificate, caregivers in most need will not be able to benefit from the job protection this bill affords.

Last is the definition of "qualified health practitioner." Currently, only those qualified to practise medicine can provide a medical certificate, which is required for caregivers to qualify for leave. The OCC recommends expanding the definition of "qualified health practitioner" to include representatives from regulated bodies who are part of the circle of support, including and not limited to employee assistance program social workers, home care case managers, disability case managers, and nurse practitioners. This will reduce the need to have the ill person travel to a doctor's office, and they can instead be assessed in the home. As a result, the likelihood of adverse health events, which can happen due to the stress of travel, will also be reduced.

1500

The Ontario Caregiver Coalition recognizes the important role caregivers play in supporting our health care system. Given all that caregivers do, we believe that, at minimum, the government should protect their jobs and support legislation that is reflective of their needs, allowing caregivers to focus on what matters most, which is providing care to their loved ones.

I'll now pass it over to John for some of his remarks.

Mr. John Parkhurst: My wife, Margot, has had Parkinson's for 23 years. Through that period of time, my

daughter and I have been her primary caregivers. My daughter is now on her own. Parkinson's is a long-term illness. My daughter does not remember a time when my wife didn't have Parkinson's.

In my role with the Parkinson Society as a volunteer and as chair, I've met a lot of people with Parkinson's in dealing with this. One of the issues always is the future, and in that is, "Will I lose my job because of the care I have to give for a loved one?"

The Vice-Chair (Mrs. Donna H. Cansfield): You have one minute, sir.

Mr. John Parkhurst: Last fall, my wife fell and broke her pelvic bone and was in hospital for four weeks. In that period of time, she was going to be discharged. There was no rehab, or there "might" have been a rehab. She would have just come home and we would have been pretty much left on our own to cope. As it was, she had rehab, and even then she was still pretty much not fully independent at that time. The act could have saved my job if I had had an employer that wasn't reasonable.

Parkinson's is not an easy disease. Medications change. The fact is that they can stop working at any time. If you have a movement disorder specialist who can help you, and you can get him on the phone, a lot of times you can resolve these issues very quickly. If you don't have that kind of support, it may be weeks or months before you get in to see somebody.

When medication stops working, people can be frozen. They can be not moving, or the tremors can be so bad that they can't take care of themselves. There are other concerns. Falls, and ending up in hospital because of that, are a major concern. My people don't do well in hospital. Medications aren't regulated right. They're just out of their own element.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much for your presentation.

Mr. Natyshak.

Mr. Taras Natyshak: Chair, Ms. Sattler.

The Vice-Chair (Mrs. Donna H. Cansfield): I'm sorry, Ms. Sattler.

Ms. Peggy Sattler: Thank you very, very much for your presentation, and especially, John, for sharing your personal story. I think that's really helpful to really understand the impact of this legislation.

I had a couple of questions. The Alzheimer Society presentation—Alzheimer's is also a neurological disorder—talked about potentially using a diagnosis of a condition and incorporating that into the act, given the unevenness of how the condition presents.

Mr. John Parkhurst: Right.

Ms. Peggy Sattler: Is that something that you feel would be helpful?

Mr. John Parkhurst: It may be, but it may be more that—I heard that a year term was thrown out by somebody earlier. Eight weeks in a year, or in an incident, was the judgment of that. We're dealing with 23 years at this point. If my wife was still in the workforce, we would be looking at a longer period of time. Yes, I guess it would be okay, but I think if you set it as a year—40 days in a one-year period of time—

Ms. Peggy Sattler: Sorry, set what as a year?

Mr. John Parkhurst: In the act, it talked about an occurrence or a serious illness. Is that one unit of time that you're dealing with, or are you dealing with a longer-term illness? For a longer-term illness like Parkinson's, 40 days over a 20-year period might not be enough time.

Ms. Peggy Sattler: Right; I see.

I also had a question about the qualified health practitioners and potentially opening up the legislation to enable more medical professionals to sign the certificate.

Mr. John Parkhurst: We're very much in favour of licensed, governed health care professionals in the thing. We would very much like to see that regulated.

Ms. Peggy Sattler: Would there be any concern about the consistency of the signing of the certificates if you have a range of health professionals who are—

Mr. John Parkhurst: I think in some ways, if you have a movement disorder specialist, which usually, for me, is 200 kilometres away, getting him or her to sign that is a little bit of trouble. Bringing in the family doctor, who may not be immediately involved in that—it's somebody who isn't really attuned. But if you have somebody who's in the house doing health care, or a social worker who's working on that, who has intimate knowledge of the case, you're probably going to get a better reading of how serious it is.

Ms. Peggy Sattler: Okay. And then the medical certificates: Have you heard from people who are involved in your organizations that this has presented a barrier to them?

Mr. John Parkhurst: Most people with Parkinson's have had their income limited. They've had their work life reduced. They're on fixed incomes. They're on reduced—

Interjection.

Mr. John Parkhurst: Yes. So it is a hardship. They're on limited fixed incomes most of the time.

Ms. Peggy Sattler: Okay. Did you have any—

Mr. Taras Natyshak: How much time?

The Vice-Chair (Mrs. Donna H. Cansfield): You have a minute and 30 seconds.

Mr. Taras Natyshak: First of all, thank you for sharing your story with us about the care you deliver to your wife. That's a beautiful story, actually. In our family, my brother was injured in a mountain biking accident seven years ago. He's a quadriplegic. We all practically moved out there to provide support for him during the first part of his injury, six months. Now my mom has left Ontario to give care to her sister, who's going through cancer treatment.

Families everywhere in this province are facing those same challenges. I think that building this bill with some financial supports built into it, through employment insurance or otherwise, would help the take-up of this bill tremendously. People could then feel secure, knowing that they can leave their job and have some financial stability built into it. Your thoughts on that?

Mr. John Parkhurst: We would love to see that happen, but as a basis and a starting point, we'd really

like job security at this point. When you were talking about—we'd love the flexibility too, because as you've stated, you get families that work together, and somebody may not need a week; they may need a couple of days to build their team at some point—how best to do that.

In my case, my daughter works shift work, so we could work things out. The flexibility is good. But if it could incorporate it with financial support, we would love to see that happen.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you, sir. Ms. Scott.

Ms. Laurie Scott: Thank you very much for appearing here today and sharing personal stories. I think that always helps make the message hit home for people.

Most of us have some caregiving experience; there's no question. Unfortunately, yours probably happened at a younger age, with your wife and—

Mr. John Parkhurst: At 41.

Ms. Laurie Scott: That's a little bit younger than most of us. Mine's mostly elder care. So I appreciate that fact, because it pertains to the bill in the sense of more encompassing caregiver action out there.

I think a lot of your messages and requests sound similar, which is good. That helps us to try to make some improvements with the bill. The cost of \$50: How do we know that maybe—I don't know if you guys have thought of this; I'm just throwing this out. You don't have to have the answer. But when we get other health care practitioners, qualified health care practitioners, have you ever come across the fact that they—

Mr. John Parkhurst: They charge?

Ms. Laurie Scott: That they might charge or might think of charging for asking? The doctors do that now because it's time, right? Everyone has a poverty of time in a certain way. But have you thought that that might occur?

Mr. John Parkhurst: I would expect that if the bill asked to have the fees waived, that would eliminate that opportunity for them to bill for that. But I have not heard of agencies billing for—that documents that they're giving care.

Ms. Laurie Scott: Okay. My other thing is, we're all saying the cost is \$50, so I assume there's a list of services and how much they can charge for them. I just didn't know if—

Mr. John Parkhurst: I think it varies from doctor to doctor and relationship sometimes.

Ms. Laurie Scott: Okay. I'm just trying to get around that as one possibility.

Some of this that was discussed today I think you might see in regulation. It should probably be more professional people within the system who make some these recommendations, but I do appreciate them being brought forward because I think it gives a lot of valuable advice. I think we all agree about the banking of time and the flexibility that needs to occur with that.

The definition of "serious medical condition": Do you think that it actually should be listed?

Mr. John Parkhurst: I think it should be more defined, because—

Ms. Laurie Scott: Like Parkinson's, COPD—

Mr. John Parkhurst: Yes.

Ms. Laurie Scott: That's going to be a long list.

Mr. John Parkhurst: Well, it could be more that it was encompassing, kind of, conditions. You wouldn't necessarily have to name all of them, but basically, what a serious medical condition is.

1510

Ms. Laurie Scott: So in your situation, if you don't mind me using the example of Parkinson's—

Mr. John Parkhurst: Sure.

Ms. Laurie Scott: A lot was brought out about functionality, so you could relate to that with Parkinson's—no question. Activities of daily life and caring for yourself are impacted with that functionality. It's just going to be a very long list, I think, and I don't know if we can make an amendment that actually encompasses everything that might need to be encompassed in it. If you were just changing it and we brought in the word "functionality"—what else would you like to see that we could actually do without listing?

Mr. John Parkhurst: It could be "critical." It could also be referring to accidents as a short-term critical issue that outlines the need to take time off and how that would qualify. Did I explain that well enough?

Ms. Laurie Scott: Yes.

Mr. John Parkhurst: Sometimes it's episodic, where you have a crisis and you have to do something. With people with Parkinson's, one of the issues that people living with Parkinson's have is that they do really well for a while and then they go downhill. What happens is that when they haven't used a service like home care for a while, they drop off their books. Then they have to do intake again to get back on the rolls to get support. Because you're doing so well, you can end up, when you need support, not having it. That's one of the issues that people with Parkinson's have, because they do have very good periods of time, and then things go down, and then they come back. When they need help, a lot of times it's not there, and you can't bring that in because you have to bring the system in and the system has forgotten about you since the last time you needed it.

Ms. Laurie Scott: Okay. If we could just do "serious," "functional" and—we could do "episodic situations," right?

Mr. John Parkhurst: Yes.

Ms. Laurie Scott: Because Parkinson's is a perfect example of that. Thank you for pointing that out; there are times when you need more help than not with a certain disease, when it decides to be more acute than at other times.

Okay. I think that's great. Thank you for that feedback. I really appreciate that. Is there anything else you'd like to add?

Mr. John Parkhurst: Thank you very much.

Ms. Laurie Scott: Okay. That's good. Thank you.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much. Mr. Dhillon?

Mr. Vic Dhillon: Thank you, gentlemen, for appearing before the committee today. Mr. Parkhurst, with respect to your experience with your wife, did you have to take time off from your work? Did you find it a struggle to balance your work and your personal family situation? How much do you think this bill does to bridge that gap?

Mr. John Parkhurst: I always had smaller companies that I was working for at that time, so we had fairly good relationships, but I could have been in danger of losing my job because of the nature of the smaller companies I was working with. Part of the reason is that I tailored my employment so that it fit better with my wife's condition, which, again, hampered my earning abilities, but to take care of my wife, we moved that way. I moved into fields that made it easier to do that care. I'm not sure I answered your question right.

Mr. Vic Dhillon: That's fine. Again, thank you for sharing your personal story about the struggle that you and your family are going through. I believe my colleague has a question.

Ms. Dipika Damerla: Again, thank you for coming and for sharing that personal story. I just had a question around the \$50, because it has come up quite a few times. The way I understand it, it's the cost that the physician or the—what's the phrase?—medical practitioner is going to charge to say, "Yes, this person's relative is very, very sick." I'm just trying to understand what your solution to that is, because that is something—if I go to a chiropractor or somebody to get my records, sometimes they will charge me as well, and the government really doesn't have much of a role there if my doctor chooses to charge me \$2 or whatever to photocopy my test results. I'm just trying to understand. It's not that I'm not sympathetic; I'm trying to understand what the proposed solution would be.

Mr. John Parkhurst: Maybe even limiting it to a lesser figure, I think, for some people would be a better option, so that it's not so much of a heavy fee. Or, if you expand it to other professionals—with the home care or the social worker—you may not get a bill to do that, and they may have just as much information as, or more than, the family practitioner. Expanding the role of who can sign can help alleviate the billing on that.

Ms. Dipika Damerla: I guess the challenge we face is balancing and making it affordable and easy for families, but also ensuring there's no abuse, that people don't unfairly abuse the system. It's trying to find that sweet spot. So it's not that we're not sympathetic, but we're just trying to figure out the best way.

Mr. John Parkhurst: I think most people who are taking care of a spouse or a family member with a critical illness are so under stress in the system. Trying to take them at home—my experience has been that they're not trying to work the system and get away with something. They're just trying to have enough money to stay in their house, to keep their loved one at home. They're already

on a limited income. They've already had stresses of where they need a job. If they're, in fact, off work without pay to take care of a loved one, \$50 that they don't have is another burden. It can throw them into issues where they can't stay in their house; they have to look at other places to go. It's just one more thing that is on the camel's back.

Ms. Dipika Damerla: Thank you.

The Vice-Chair (Mrs. Donna H. Cansfield): Are there any further questions?

Mr. Vic Dhillon: No, Chair, that's fine.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much for your presentations.

Mr. John Parkhurst: Thank you very much for having us.

CANADIAN CANCER SOCIETY

The Vice-Chair (Mrs. Donna H. Cansfield): Our next presenter is the Canadian Cancer Society. If you would introduce yourself, please, and state your position. You have five minutes for a presentation. I'll give you a heads-up at one minute to go.

Ms. Joanne Di Nardo: Great; thank you. Dear Chair and committee members, my name is Joanne Di Nardo. I am senior manager of public issues at the Canadian Cancer Society, Ontario division. I'm here to talk about the importance and the need for improved family caregiver benefits.

The Canadian Cancer Society believes that family caregivers should have prompt and easy access to the support and services they need when caring for a loved one. The society and its volunteers have been advocating on this important issue at the provincial and the federal levels for years.

In 2007, there were 2.7 million caregivers over the age of 45 in Canada. Caregivers are of great value in a family unit and to the government, who is lessened of that burden when a family member steps in to take it on. It's very important for caregivers to be present at all treatments and appointments for their loved ones. Between 2002 and 2007, the number of family caregivers over the age of 45 increased by 30%. This is an increase of approximately 670,000 people.

We know how important it is for a patient going through a cancer journey to have a family member and caregiver present for all the appointments and treatments. It is very difficult for a patient to absorb the information provided at appointments, including instructions for treatments and how to manage care.

A family caregiver loses approximately 23% of their workable hours, and 23% of family caregivers miss one or more months of work. Up to 85% of all palliative care in Canada is provided by family caregivers, and the financial impact of caregiving is significant. A caregiver's out-of-pocket expenses are more than \$1,000 a month.

Cancer is more than a health issue. It is also a complex social issue that leaves families grappling with caregiving responsibilities for seriously ill family members. The

physical, emotional and financial burden on caregivers is a veritable strain on many families.

Because of an aging and growing population, more people are being treated for a longer period of time, with the majority of family caregivers being women, and that's at 77%.

Some 89% of Canadians fear that unpaid caregiving will have a negative impact on their overall financial situation. This cannot be ignored. Bill 21, if passed, would allow families to concentrate on supporting their loved ones instead of worrying about a potential job loss. While the society would like to see this legislation evolve into a paid leave supported by the federal government, we are pleased with this bill and look forward to its passage. Thank you.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much for your presentation. We're going to start with Ms. Scott.

Ms. Laurie Scott: Thank you very much for being here today. We've had a lot of suggestions. You've probably heard about the definition of a serious medical condition. Do you have any comments that you want to make? We have the time.

1520

Ms. Joanne Di Nardo: Yes. It's a very thorough definition. We don't have any additions to that. We like what we see in the bill. We do think, of course, there are always things. If there are conditions missing, we would support that, and from a cancer perspective, of course we would expect that it covers those going through cancer treatment.

Ms. Laurie Scott: Okay. So there are no specific requests and changes of the legislation that you see coming forward?

Ms. Joanne Di Nardo: No.

Ms. Laurie Scott: Okay. That's fair enough. We've had a lot today, and you've heard them. But I appreciate what the Canadian Cancer Society does. I would say that most—I don't know—people needing care at home—how many do you think would be connected with a cancer diagnosis? I know that's a pretty broad question. Do you have any figures?

Ms. Joanne Di Nardo: I don't know the number, but if we look at it from a survivor's standpoint, we definitely have increased numbers of survivorship. So if we look at children's cancers, for instance, we have about 1,300 children that would be diagnosed in Canada with cancer, and 82% of them would be surviving. But there's always that need for a caregiver to be present through all those appointments, and with those children at home, even post-cancer treatment, so during their survivorship. I don't have numbers in front of me. I might be able to get you those numbers.

Interruption.

Ms. Laurie Scott: That's okay. They're just flashing a vote up on the screen behind. Don't worry; it's okay. I appreciate—

Interjection.

Ms. Laurie Scott: It should be deferred, but just give the bell ringing a few more minutes.

Thank you for appearing here today. Thank you for recognizing the need for caregivers to exist within the family members and the need for change in legislation. I appreciate that you came down today and were a witness to our committee.

Ms. Joanne Di Nardo: Thank you.

The Chair (Mrs. Donna H. Cansfield): Are there any additional questions?

Ms. Laurie Scott: No. We're good. Thank you again.

The Chair (Mrs. Donna H. Cansfield): Thank you very much, and if we could, Mr. Dhillon.

Mr. Vic Dhillon: Thank you very much for appearing before the committee. How much do you think this bill will help with the struggles of a caregiver and an ill loved one with respect to their personal and business and employment situations?

Ms. Joanne Di Nardo: We definitely think that it will have a positive impact on one's decision to take time off to care for someone who's going through a cancer experience. As I said in the presentation, we have been advocating for this to have improved caregiver leave for Ontarians and Canadians. What would definitely improve the bill would be a paid leave. If this was supported financially for those who needed to take the time off—a job-protected leave is a true benefit, but a paid leave would be even more ideal because we often know that it's more than eight weeks that one needs when going through cancer treatments because there are so many different treatment methods out there. Some of those treatments are at home, some are in hospital, and some require multiple levels.

Mr. Vic Dhillon: What does the inclusion of care-taking for family members with a serious medical illness mean to your organization?

Ms. Joanne Di Nardo: For us, that would be one with cancer, who has been diagnosed with cancer. That would cover them.

Mr. Vic Dhillon: Any other questions? Thank you very much.

The Chair (Mrs. Donna H. Cansfield): Thank you very much for your presentation. Now we have either Ms. Sattler or Mr. Natyshak.

Mr. Taras Natyshak: Ms. Sattler?

Ms. Peggy Sattler: Thank you very much for your presentation. As a researcher, I really enjoyed the statistics that you used in your statement.

I'm interested in the 30% increase in the number of caregivers over age 45 in that period from 2002 to 2007, which is a dramatic increase. Is the research showing that that is expected to accelerate even more—the increasing number of caregivers?

Ms. Joanne Di Nardo: It seems to show that it's trending that way, that we're seeing an increased number of caregivers. In terms of incidences of cancer, each cancer is different, so in some cases, we'll see greater incidences of certain cancers and lesser incidences of others. But also we have to look at those who continue to require care at home even post-cancer treatment. They're still requiring that assistance until they are able to be

okay on their own without a caregiver present. But we have seen that it's trending up, yes.

Ms. Peggy Sattler: And is that statistic just for cancer?

Ms. Joanne Di Nardo: No, it's for all caregiving. It encompasses all caregiving. I can probably look for more information if you would like more in terms of how—estimated for the future as well.

Ms. Peggy Sattler: Oh yes, I would be interested in the future projections. The statistic around the number of women who are involved as caregivers, 77%—has that been pretty consistent throughout the years, or are you seeing increasing incidence there as well?

Ms. Joanne Di Nardo: We are seeing that to stay around the same. It seems to be the norm.

Ms. Peggy Sattler: And another question about another statistic you had in there: 23% of caregivers miss one or more months of work. Now, this legislation is proposing to provide up to eight weeks, which would be two months. Does that seem sufficient to you, given the numbers that you've quoted here?

Ms. Joanne Di Nardo: More is always better, but we understand where we're coming from, from the perspective of taxpayers in the province, and hoping that there would be maybe even a financial benefit coming from the federal government. It is fine with us. We do not have a challenge with that, but it still would pose some challenges to some families that do require more time away from work than just eight weeks or two months. But it is a challenging issue to contend with.

Ms. Peggy Sattler: Okay. Did you have questions?

Mr. Taras Natyshak: How much time, Chair?

The Vice-Chair (Mrs. Donna H. Cansfield): You have two minutes and 11 seconds.

Mr. Taras Natyshak: Two minutes. Thank you for your submission. The concept of banking unused days to be used at a later date: What are your thoughts on that?

Ms. Joanne Di Nardo: That is something, actually, we have requested in the past on our advocacy to government around this issue. So we have asked that it not be in one lump sum and that people be able to break it up. So that is a benefit.

Mr. Taras Natyshak: In our perspective, it seems like a low-hanging fruit here in terms of strengthening the bill. We hope that that's one amendment that we can come to some consensus around, because it does seem as though it would make the bill a little bit more functional.

I mentioned earlier that my mom is right now in Vernon, British Columbia, providing care to her sister. And her sister, my aunt Patti, who's going through cancer treatment, is certainly doing better because her sister is there with her. That level of care just surpasses what someone else could give—that intimacy and knowledge and, I guess, connection. I don't know if this bill talks about the ability for Ontario residents to leave for other jurisdictions for family members that are sick in Manitoba, Quebec or anywhere else in the country. What are your thoughts on that? Should it be applicable for anyone who seeks to give care to any other family member in the country?

Ms. Joanne Di Nardo: We'd definitely look at some sort of system of equality. So the same as what we expect when it comes to drug treatments in this province and across the country—we would expect the same for caregiving. We understand the jurisdictional challenges with that, but if we could see a system in the future, whether that's short-term future or long-term future, we would see that as a benefit because borders are less and less important these days when it comes to caregiving.

Mr. Taras Natyshak: And the Canadian Cancer Society—are you actively lobbying the federal government for their direct involvement in this piece of policy?

Ms. Joanne Di Nardo: We are, through our national office, yes.

Mr. Taras Natyshak: And what are your thoughts on their response or openness to—

Ms. Joanne Di Nardo: We haven't really had a clear response.

Mr. Taras Natyshak: So, all the more reason for our government to play a larger role in that. Thank you.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much for your presentation. This concludes all of our guests and presentations at this point.

COMMITTEE BUSINESS

The Vice-Chair (Mrs. Donna H. Cansfield): Now we will entertain motions.

Ms. Dipika Damerla: Thank you, Chair. I move that the Clerk, in consultation with the Chair, be authorized to arrange the following with regard to Bill 105, Supporting Small Businesses, 2013—

The Vice-Chair (Mrs. Donna H. Cansfield): Excuse me, Ms. Damerla: Do you have copies, please?

Ms. Dipika Damerla: Yes, I do.

The Vice-Chair (Mrs. Donna H. Cansfield): Please go ahead.

Ms. Dipika Damerla: I'll just wait for it to be circulated.

The Vice-Chair (Mrs. Donna H. Cansfield): No, you can go ahead.

Ms. Dipika Damerla: I move that the Clerk, in consultation with the Chair, be authorized to arrange the following with regard to Bill 105, Supporting Small Businesses, 2013:

(1) One day of public hearings during the committee's regularly scheduled meeting time on Monday, November 18, 2013;

(2) One day of clause-by-clause consideration during the committee's regularly scheduled meeting time on Wednesday, November 20, 2013;

(3) Advertisement on the Ontario parliamentary channel, the committee's website and Canada NewsWire;

(4) Witness presentations scheduled as the requests are received, on a first-come, first-served basis;

(5) Witness presentations scheduled in 20-minute time slots, with presenters provided up to five minutes for their presentation, followed by up to 15 minutes for ques-

tions from committee members, divided equally between caucuses;

(6) A deadline for written submissions be set for 5 p.m. Monday, November 18, 2013; and

(7) A deadline for filing amendments with the Clerk of the Committee be set for 4 p.m. on Tuesday, November 19, 2013.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much. Any comments?

Mr. Taras Natyshak: A five-minute recess, Chair.

The Vice-Chair (Mrs. Donna H. Cansfield): A five-minute recess has been called. We'll have a five-minute recess.

The committee recessed from 1530 to 1535.

The Vice-Chair (Mrs. Donna H. Cansfield): Ladies and gentlemen, the five-minute recess is up. Thank you.

Do we have any comments on the motion as read by Ms. Damerla?

Interjection.

The Vice-Chair (Mrs. Donna H. Cansfield): Pardon me?

Interjection.

The Vice-Chair (Mrs. Donna H. Cansfield): No comments? Any comments?

Ms. Dipika Damerla: Chair, I'd just like to make a comment.

The Vice-Chair (Mrs. Donna H. Cansfield): Yes, Ms. Damerla?

Ms. Dipika Damerla: I'd just like it to be on the record that this is a bill about helping small business and that we really want to get moving on this, because if we want this to come into effect on January 1, 2014, we need to get it passed before the end of this session. That's the reason we have called for it now. We need to get the bill passed through committee and third reading before the end of this legislative session so that it can go into effect January 1, 2014, for small business. I just wanted to say that. That's the rationale for bringing it forward.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much. Any further questions? Mr. Natyshak.

Mr. Taras Natyshak: I appreciate the emphasis that the member puts on the need to push this bill forward to support small businesses, and I'm hopeful that the House leaders will work expediently to deal with the issue of the timing of the committee business on this bill. That's where I think it will happen.

The Vice-Chair (Mrs. Donna H. Cansfield): We'll put the motion to a vote.

All those in favour of the motion?

All those opposed to the motion?

Thank you very much. The motion fails.

Do we have another motion? Ms. Scott.

Ms. Laurie Scott: I move that, pursuant to standing order 111(a), the Standing Committee on General Government immediately initiate a study and review of the 2015 Pan/Parapan American Games and the Pan/Parapan American Games Secretariat, as it relates to the mandate, management, organization or operations of the Ministry of Tourism, Culture and Sport, with particu-

lar emphasis on financial issues, budgets and expenses of the 2015 Pan/Parapan American Games and the Pan/Parapan American Games Secretariat, in an effort to determine whether or not the Ministry of Tourism, Culture and Sport effectively exercised their role into the oversight of the 2015 Pan/Parapan American Games.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much. We have a motion on the floor. Any comment? Ms. Damerla.

Ms. Dipika Damerla: Chair, I'd like a five-minute recess.

The Vice-Chair (Mrs. Donna H. Cansfield): A five-minute recess is called.

Ms. Dipika Damerla: Actually, make that 10.

Ms. Laurie Scott: Five is better.

Ms. Dipika Damerla: I know, but we might need that time. I mean, this is so new. This is not routine. This is just—

The Vice-Chair (Mrs. Donna H. Cansfield): So we'll have a 10-minute recess? Is that correct? Yes, go ahead. Ten minutes.

The committee recessed from 1538 to 1548.

The Vice-Chair (Mrs. Donna H. Cansfield): The recess time is up, and we have a motion in front of us. Do we have any discussion of the motion in front of us?

Interjections.

The Vice-Chair (Mrs. Donna H. Cansfield): Excuse me. We have a motion in front us. It has been read; it's on the table. Any comments? Ms. Damerla.

Ms. Dipika Damerla: I'd like to just clarify: When we speak, we get 20 minutes to each party or how does this work? If I speak to the motion, how much time do I have?

Mr. Michael Harris: How much time do you want?

The Vice-Chair (Mrs. Donna H. Cansfield): There is no—

Ms. Dipika Damerla: Okay, all right. I will be tabling an amendment but first I have some comments. I'll be tabling an amendment to the motion that's been proposed by MPP Scott.

Chair, I just want to begin by saying how disappointed I am to see this motion, because I see that both MPP Jackson and MPP Harris are here and they well know that very similar requests were made through estimates. So this just seems like a total waste of time. I don't see the purpose of it. Very similar requests have already been made through the estimates committee and agreed to. I don't know what one can tell one's constituents. "What did you do this week?" "Oh, we asked for very similar stuff all over again from the public servants." This is not what we were elected for. It is indeed very, very disappointing, Chair, that we are at this point where we are asking for very similar things over and over again. I'm not sure what the intent is other than to not get the work done, to not move the people's agenda forward.

We could be using this time listening to auto insurance hearings, as members opposite from the third party have requested. We could be working on Bill 105. Instead, we are playing politics, and that is indeed very, very frustrat-

ing. It's particularly frustrating because I see MPPs who were part of the estimates. They had their full chance to ask the bureaucrats all the questions they wanted. They've made some requests for additional information that will be provided to them. So it's a little baffling why this is being done; or perhaps it's not that baffling and it's just politics as usual by the loyal opposition.

I am struggling. I'm thinking, what am I going to go back and tell my constituents on Friday? "What did you do all week?" "Oh, we were at committee." "And what did you do at committee?" "Oh, we did the same things that we did three weeks ago." "Why did you do that?" "Well, I don't know." It doesn't make sense.

For a party that keeps talking about saving the taxpayer a dollar, this really is a blatant example of a complete waste of everybody's time. I mean, we're done with estimates. We've provided—and we will be providing you—all of the information that has been requested. Really, this committee should be going ahead with Bill 105—very important business, helping our small business—so that we can create jobs for people who need jobs here in Ontario.

Mr. Rick Nicholls: A point of order.

The Vice-Chair (Mrs. Donna H. Cansfield): I have a point of order.

Mr. Rick Nicholls: With all due respect to the member from the government, she's not really speaking to this particular motion, per se. All she's doing is just rehashing what has gone on in estimates. We do have a reason why we're doing this. It's because we didn't get any answers in estimates. For her to keep going on about the swan song with her constituents—I think the point has been made. I would move the motion. Call the question, please.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much for your point of order. The speaker has an opportunity to speak for up to 20 minutes, but it must be to the motion.

Ms. Dipika Damerla: Chair, I am speaking to the motion. I'm trying to explain why we don't agree with the motion. That's what I'm doing. I think it's to the point because I'm trying to say why we don't agree with your motion and why we will not be supporting it in the way it is. That's what I'm trying to do, MPP Nicholls, so please let me do that.

As I was saying, and to respond to MPP Nicholls, I think it would be an unfair characterization to say that the Ontario public service officials did not respond. They responded to every question that was asked by the third party as well as the loyal opposition in this committee right here. In fact, we went above and beyond. And then there was a request made for additional information that will be provided. I believe that deadline has not been approached yet. So why don't we first look at the request that was made in estimates and see what you get? Why would you put in a parallel request at the same time? That is troubling and that's why we are not able to support it, because it's a waste of taxpayer money. You just asked for the exact same thing in estimates. You

haven't even seen what we are going to give you, so how is this any different? That's the frustrating part.

Why can't we instead be working on Bill 105? Why couldn't we be working on auto insurance? Those are important issues, issues about which questions were raised even today in the Legislature by the third party. We'd love to just get on with auto insurance. We'd love to just get on with Bill 105. Instead, here we are playing political games. Here we are asking for very similar information. I'm sure members opposite will try to make the case of nuanced difference, but, in general, you're asking for financial information around the Pan/Parapan Games. That's exactly what was done in estimates; that's what is going to be provided in estimates. There was even a late show that MPP Jackson asked for on this issue and he apparently didn't show up in time.

All I'm saying is that we have been doing, on this side, on the government side, everything we can to provide you with all the information you need. In fact, with respect to the late show, it's often the parliamentary assistant who does the late show, but in this case the minister insisted on showing up himself because he wanted to be there, to take responsibility. That is a good example of showing how co-operative this ministry and this government have been on the Pan/Parapan Games.

Again, it's very, very unfortunate that we've come to this pass. This could have been something that ought to have been at least discussed at the House leader's office before bringing it—just bringing it like this suggests nothing but politics, nothing but cheap political point scoring.

I'm just trying to understand the point of this. The request has already been made through another channel. The deadline for that has not—I mean, had the deadline for that come and gone and the government hadn't responded, perhaps—and even then, perhaps the real way to be doing it is to go back to that committee and ask for more information, but not to open another channel and another information on the same issue. That really is problematic for us and that's one of the reasons we will not be able to support it. The timing, as well, is not good—

Mr. Michael Harris: Point of order.

The Vice-Chair (Mrs. Donna H. Cansfield): Point of order, please. Yes?

Mr. Michael Harris: I'd just remind the member that the motion clearly states here that we want to initiate a study and review. This motion doesn't indicate a call for any documents, papers or things. Perhaps you want to go over this motion again. It is different, in fact, from the comments you were making with regard to the estimates. We're asking for the committee to be struck to initiate a study and review of the Pan/Parapan American Games. It's not asking for any papers or otherwise—just to remind the member speaking to the motion that that's what it states.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much, Mr. Harris. Ms. Damerla?

Ms. Dipika Damerla: Chair, could you tell me how much time I have left?

The Vice-Chair (Mrs. Donna H. Cansfield): You have about 11 minutes.

Mr. Rod Jackson: Keep going.

Ms. Dipika Damerla: I need your help, yes. A few points of order are good, because it helps me respond, so thank you. Please keep them going.

I'd like to actually comment on what MPP Harris brought up. I referenced that and I said I am sure that the members opposite will bring up nuanced differences about how this is different, but I'm going to the intent. What are you going to study? Numbers. I'm sure you're not going to be doing a field study to South America to look at the way they did it over there. I'm going to guess that your study is going to be focused here on Ontario and on the budget. In fact, I think the motion does refer to that.

The point is, yes, it's been phrased a little differently, but a request has already been made to estimates. Why don't we wait? Why don't we see what comes out of it? Perhaps it will satisfy you; perhaps it will not. If it does not satisfy you, then let's look at other options. Why is this being done? What good is going to come out of this? How does this help make the Pan/Parapan Am Games a success? How does this help Ontario create new jobs, which is what we really need to be doing right now? How does this help us reduce auto insurance rates? How does this help us move with caregiver leave? These are the questions we ought to be asking ourselves.

The fundamental question we have to ask ourselves is, what did we get elected to do? We got elected to make Ontario a better place to live in. If that means holding the government to account, absolutely. That's what the democratic process is. That is the way it is set up, and the loyal opposition has a very important role. It is not that we begrudge the loyal opposition access to information or holding the government to account; that, absolutely, we believe is the job, but the objection we have is the duplication of work. The objection we have here is that we are going to drag the same bureaucrats who were brought to estimates—over and over again, by the way, because of the political gamesmanship that took place back then at that estimates, when there were entire days where the minister, the deputy minister and senior staff were just sitting waiting, because questions could not be asked because the opposition was playing political games. That aside, we've already wasted so much of their time, and now we're going to waste the taxpayers' money again. Who's going to be watching for the taxpayers' money if you're going to be dragging this out like this?

I really wish that, at this point, instead of talking about this, we were right about now doing a subcommittee meeting on Bill 105. We could have accomplished so much. We could have set up who the witnesses were going to be, who was going to come and how we were going to move forward with Bill 105, which would eventually lead to creating more jobs right here in Ontario—which, I believe all three parties agree, is our number one priority. If there's one thing we need to do in

Ontario, it is to create jobs, not to create paperwork, not to create duplication of work and not to waste taxpayer dollars.

It's deeply disappointing. As a newly elected MPP—it's been just about two years—I was hoping that we'd learn to make a minority government work, but what I've really seen is a—

The Vice-Chair (Mrs. Donna H. Cansfield): Excuse me, Ms. Damerla. You need to speak to the motion, please.

Ms. Dipika Damerla: Thank you, Chair. I will try. Sorry if I got carried away in my disappointment, but the disappointment does stem from the wording of the proposed motion. I don't know that they can be divorced from each other, or separated. To speak to that motion is to speak about the fact that this is not what we were elected to do. This motion really is problematic.

I'm just going to take another look at it—"it relates to the mandate, management, organization or operations of the Ministry of Tourism, Culture and Sport, with particular emphasis on financial issues, budgets and expenses of the 2015 Pan/Parapan American Games." I don't know how this is different from the request that was made in estimates. The "emphasis on financial issues, budgets and expenses"—you've asked us questions in question period. You've asked for two late shows. You've asked for a ton of information through estimates, which is being compiled as we speak.

How does this help? At least if it helped you get more oversight, I could understand. It doesn't, because this is a parallel process that you are starting. It's just politics, and I wish we could stop the politics. I wish we could just get on with the business of governing Ontario in the best interests of Ontarians everywhere.

I'd love to get a dollar figure for what it's going to cost this government to bring out and create all of the documents that were asked for in estimates and then, one more time, to do it for this committee in this particular fashion. I'd love to know that dollar figure, and I'd love to see what your constituents, the constituents of MPP Harris, the constituents of MPP Nicholls, the constituents of MPP Scott, the constituents of MPP Jackson would have to say. Well, they have not proposed this motion, so I'm not going to bring them in; I'm going to give them the benefit of the doubt. I'm just going to give them the benefit of the doubt, because they have not brought this motion forward, and I want to be fair.

1600

What would you say to your constituents, to the waste, to the duplication? This is just a waste of money. This is just not—

Mr. Michael Harris: What do you say to yours about the power plants?

Ms. Dipika Damerla: I'm sorry?

Mr. Michael Harris: What do you tell your constituents—

Ms. Dipika Damerla: Well, you'll get your turn, MPP Harris. You will get your 20 minutes, and I hope you will use every last second of it. We would be more

than happy for you, and I won't even do a point of order. You can talk about gas plants, if that's what you want to talk about. We'll let you talk about whatever it is that you please.

But at this point, one good or one bad doesn't condone another good or another bad, so to bring up another example and say, "What about this?" or "What about that?" is not the point. The point is that this motion is redundant. If I had to summarize the whole situation, it would be "politics as usual." This motion is redundant. It's a total waste of time.

Chair, could you give me some idea of how much time I have left so I can—

The Vice-Chair (Mrs. Donna H. Cansfield): Yes. You have four minutes and 20 seconds.

Ms. Dipika Damerla: Thank you—four minutes and 20 seconds.

Chair, as I was mentioning, I've looked at this motion every which way. I've read it three times; I've read it upwards, sideways, seven ways to Sunday, and I still can't figure out what is new about this, what is different about this. But more importantly, it's not about the wording, whether it's a committee meeting we're asking—as opposed to all the correspondence. What does this get you that the request through estimates does not?

There is a process in place. There is a process in place for the opposition to hold the government to account, and that is through estimates; that is through question period. It is not to use a standing committee like this, the standing committee on government business, which should be studying bills in front of the Legislature. This is not the use that this standing committee was created for: to do a study of something that is in front of estimates right now.

I really am concerned about this trend where multiple committees are used for the same thing. The only reason I can think of is politics, finger-pointing and a needless waste of taxpayer money. That, Chair, gives us all pause.

This is not a good time for politicians. This is a time when the public is quite disappointed with us, and we need to do better. This sort of behaviour, this sort of playing politics, this sort of wasting of government money really doesn't do much to enhance our status with our constituents.

When I talk to my constituents, I always say, "Don't paint all politicians with the same brush." There might be one or two bad apples, but for the most part, regardless of which party, 99% of all politicians mean well, work hard and are there to do a job which they believe in. But when—

Mr. Taras Natyshak: We're talking about the 1%.

Ms. Dipika Damerla: Yes, and we don't want to be that 1%. We want to be the 99%, and sometimes, gamesmanship like this makes me wonder. I mean, if I was an ordinary Ontarian and I was told a similar request—

Mr. Michael Harris: Are you not an ordinary Ontarian?

Ms. Dipika Damerla: I am an ordinary Ontarian, but I'm just saying a non-elected ordinary Ontarian. Thank you for bringing that up.

As an ordinary Ontarian, I can tell you that if I were to tell my constituents that the loyal opposition had asked for some information through estimates, and then, without letting that process unfold in due course, had now asked for very similar information from the government all over again, through another committee, which was not created to do that business, they would be scratching their heads. They would be very, very disappointed.

I know the loyal opposition is trying—and the operative word here is "trying"—to create this grand image that somehow they can look after the taxpayer dollar well. I can tell you that when I tell my constituents, "This is what's going on," I can assure you that the few Tories left in my riding will also go, "Okay, well, this is not what I believe is saving taxpayer dollars."

I really feel that this is not a good thing. It's a dangerous thing to do, it doesn't help anybody, and certainly it is not helping us save taxpayer dollars.

So I just wanted to really emphasize that this motion is a waste of time. This motion is a duplication of effort. This motion is a waste of taxpayer dollars and, most importantly, this motion isn't going to do anything to help us make the games a success.

I read the press release by MPP Jackson, and he says very proudly, "I would like these games to be a success." How does this help make the games a success when you ask for the same information, or very similar information, in duplicate? How does that help? Instead, you should be out there promoting Ontario—

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much, Ms. Damerla.

Ms. Dipika Damerla: Thank you, Chair.

The Vice-Chair (Mrs. Donna H. Cansfield): Our next speaker is Mr. Nicholls.

Mr. Rick Nicholls: Thank you very much, Speaker. I appreciate MPP Damerla's declaration of independence speech, but unfortunately it truly didn't address the motion that's in hand, with all due respect.

It's different. This motion is actually different. We're not calling for documents per se, okay? We're bringing forth this motion because, in estimates—I was a member of that, as were MPP Harris and MPP Rod Jackson—we did not get the answers that we were seeking during our time with the Minister of Tourism, Culture and Sports.

I'm actually somewhat concerned at the fact that for a government that's apparently, supposedly, committed to openness and transparency, it's almost appalling that they would in fact refuse to support the motion that we brought forward. When we look at this motion and we break it down: "initiate a study and review of the 2015 Pan/Parapan American Games"—and then other key words—"with particular emphasis on financial issues, budgets and expenses."

MPP Jackson has done a remarkable job of exposing a lot of things that have fallen through the cracks. I won't point fingers at individuals, but obviously we have another committee involved. Sometimes the direct oversight from the ministry can go a little bit sideways because of the complexity of things. For that reason,

again, we are looking and calling for a simple study that would in fact review as well all the financial issues, the budget and the expenses of the games.

Truly, to my honourable colleagues across on the government side, if you really have nothing to hide—and I don't want that to sound demeaning—then, come on, let's get this motion passed so that we can in fact get answers to the questions that we have and so that things can be clarified. So, based on that, Chair, again, I call the question.

The Vice-Chair (Mrs. Donna H. Cansfield): I think there should be some more debate on this issue, probably. We haven't heard from all parties.

Ms. Dipika Damerla: Sorry, Chair. I didn't hear because we were just—

The Vice-Chair (Mrs. Donna H. Cansfield): Well, I have a speakers' list, but I'm just going to confer.

Ms. Dipika Damerla: Chair, I just want to clarify that there's an amendment I want to table before anything goes to a vote.

The Vice-Chair (Mrs. Donna H. Cansfield): I actually think that there should be an opportunity for debate on this issue and that everybody who wishes to speak should have an opportunity to speak. At that point, we will look to the closure. But I think it's fair to allow everyone an opportunity to speak. You have an amendment.

I have a list here. Mr. Harris. Is there anyone else that wishes to speak? Mr. Dhillon, okay.

Yes?

Ms. Laurie Scott: I'm just asking because I do not know the answer: Do we have a vote to say if we want to call the vote, or is it just a ruling by the Chair?

The Vice-Chair (Mrs. Donna H. Cansfield): It's a decision that actually comes out of the standing orders. People have the opportunity to speak for 20 minutes. Once the Chair is satisfied that there has been reasonable debate, then you can call for the vote.

Ms. Laurie Scott: Okay, so you can't have the vote before the Chair says there has been reasonable debate.

The Vice-Chair (Mrs. Donna H. Cansfield): We have Mr. Harris.

Mr. Michael Harris: I'll just be quick because my colleague Rick Nicholls summed it up, for the most part. Again, this is really a study and review of the 2015 Pan and Parapan Games. I think our constituents would be well served with the questions that we ask. I think there are a lot of questions that still remain unanswered. I'll be supporting this motion. Thank you.

1610

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much, Mr. Harris. Mr. Dhillon?

Mr. Vic Dhillon: Thank you very much, Chair. Just as my colleague from Mississauga East-Cooksville stated, this is nothing but playing politics. You know, Chair, two of the most pressing issues in my riding deal with auto insurance and temp agencies, and I think we could be using our time to address those issues.

I believe in the House there have been many questions about the Pan Am Games—even today, I believe there was a question—and Minister Chan is addressing all the concerns that are being raised by the opposition and the third party. This motion appears to be nothing but politics, as obviously this will waste a lot of valuable time and, needless to say, a lot of money. Again as my colleague stated, I'd really like to find out what that dollar figure would be.

The opposition and the third party lately have been speaking about the gas plants and about the billion-dollar number. Very rarely do we hear about the fiascos that they've created, which are far, far more than the billion dollars. For example, the 407 was sold at a ridiculously low amount of money—

Mr. Michael Harris: Chair, point of order. Clearly the—

Mr. Vic Dhillon: I'm trying. I'm trying. You're interrupting me.

I remember that. And going back to the gas plants, it's as if they had nothing to do with the cancellation of gas plants. During the election, I can remember my opponents, as I'm sure would my colleagues from Ottawa and from Mississauga East-Cooksville—the other side was on the airwaves every day: "Elect us. Elect us. We'll cancel them."

Ms. Dipika Damerla: "Done, done, done."

Mr. Vic Dhillon: Who said that?

I find that to be just totally hypocritical, because the damage done to Ontario's books is far more than a billion dollars, and they make it seem as if a billion dollars just went out the window. That's just not the case.

Mr. Michael Harris: You're right; a billion—

Mr. Vic Dhillon: Well, you know what? The 407, and it's not just selling the 407; it's giving that golden deal that they can do whatever they want after. They can raise the amount of money charged; they can just basically have a free ride with the hard-working taxpayers of this great province of Ontario.

I'd like to go back to talk about the auto insurance issue—it's such a huge issue—and the temp agencies issue. I rarely hear especially the official opposition talk about this and against this, because, frankly, a lot of those big business people are their friends and they want to keep them happy. I remember in 2007, I believe it was, when I brought the temp agencies bill forward and I got very little co-operation. It was a private member's bill, if I can recall—

The Vice-Chair (Mrs. Donna H. Cansfield): Mr. Dhillon, just to remind you that you have to speak to the motion on the floor, sir.

Mr. Vic Dhillon: Well, I am trying. I'm trying, Chair.

Mr. Michael Harris: You can do better than that. Come on, you're better than this. You've been around here long enough.

Mr. Vic Dhillon: You know, all what I'm talking about relates to jobs, and I'm very—

Interjection.

Mr. Vic Dhillon: The Pan Am Games will create a lot of jobs. In all seriousness, joking aside, what you guys

are doing is creating an issue out of this wonderful opportunity we have to bring the Pan Am Games to our great province and showcase our wonderful province and our country to the world.

It looks like pretty much the same thing as what your friend at the municipal level is doing to the city of Toronto. I see very, very striking similarities between this.

In all seriousness, it really pains me that we have this wonderful once-in-a-lifetime opportunity to have such a wonderful event—my kids are looking forward to it, and hopefully it will be a great experience not just for my children but all of our children to see this event and hopefully volunteer and meet so many wonderful people from so many different countries in one place. That opportunity doesn't come every day. I'm looking forward to my kids volunteering if they're allowed to and if they meet the criteria, as are so many of my friends and my neighbours and, in fact, all Ontarians.

What this bill does is it puts a negative light on such a great event that's going to be happening. Frankly, for the opposition to be looking for perfection—they should look at their own history if they want to do that.

Our government is regularly meeting with the team led by the Honourable David Peterson. They are just absolutely thrilled. They're putting in a lot of long hours and effort, and have assured us and assured anybody who wants to have a conversation about this that the Pan Am Games will be done on target and on budget. I have total faith in Mr. Peterson and his team.

It's just unfortunate that the opposition has chosen this cheap tactic to taint such a wonderful event that I'm so proud of being part of in our great province of Ontario. This is bad. Honestly, no joking, joking aside and everything else aside, this is a wonderful opportunity.

When I look in the lens of my constituents, I speak to them, as most of us do, usually on the Fridays, and I talk about it; they're excited. For the average person, with the challenges that families face, this is one of those things where at least people just say, "Okay, I'm looking forward to this, even though this will be an extra expense for me in terms of coming down for the parking and for the tickets etc." This is something that people automatically mentally budget for, in their minds, well ahead of time.

It's very disappointing when we shed this negative light on this wonderful event and want to play a game. What does it come back to? It comes back to politics. I just don't understand. That's how low the thinking of the opposition has become, when there are other issues—for example, Bill 105, the Supporting Small Businesses Act—that we could be debating.

Again, talk about hypocrisy. They cry about jobs, jobs, jobs, and we're working every day on this issue. I can tell you, our government is—

Mr. Rod Jackson: Point of order, Chair.

The Vice-Chair (Mrs. Donna H. Cansfield): Point of order.

Mr. Rod Jackson: Clearly, the member is not speaking to the motion—

Mr. Vic Dhillon: It's about—

Mr. Rod Jackson: They don't want to get business done here. Unless they're talking to the motion—

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you. The point is well taken. Mr. Dhillon, please continue, but I also remind you that in the standing committee as well as in the House, we use parliamentary language.

Mr. Vic Dhillon: My apologies, and I withdraw if I have said anything that is unparliamentary. I did not mean to say that, but you can't resist going into that arena, because of all the negativity in this. I'm sorry if my emotions have led me to say something that's unparliamentary.

1620

I feel very strongly about this. We're trying. We have a lot of people who don't have jobs, and this is one of the ways, the Pan Am Games, which will leave a long legacy of good-paying jobs that will help our communities, as well as the benefits of some incredible infrastructure.

As a matter of fact, with respect to the Pan Am Games, when I did have a briefing, along with some of my colleagues, a lot of the venues are ahead of target. That is just incredible. I can go on and on and on. I'm just in awe when I look at some of the buildings and how this will reshape the landscape here in Ontario, especially southern Ontario, where we've gone through an incredible recession.

We should all, collectively, from all parties, be looking forward to such an event instead of playing this low-ball politics. It just disgusts me that we would be doing this.

I believe we have an amendment, and my colleague would be reading that into the record, if that's okay with you, Chair.

The Vice-Chair (Mrs. Donna H. Cansfield): No, not at this time. You have another three minutes, and then I have a speaking order.

Mr. Vic Dhillon: Okay. Well, you know, I just can go on for another three hours, because this is not a good example of how we can set an example of working together. This is not what my constituents are telling me as to what I should be doing here.

Again, we should go ahead with Bill 105, the Supporting Small Businesses Act. As a matter of fact, with respect to supporting small businesses, we had a lot of politics played when we introduced the HST—again, a bunch of hypocrisy by the opposition. They were on record for supporting the HST, but when we brought it online, they had some very, very negative commentary. The leader of the official opposition, Tim Hudak, was on record—

Mr. Rick Nicholls: Point of order.

The Vice-Chair (Mrs. Donna H. Cansfield): Point of order.

Mr. Vic Dhillon: —as supporting this economic measure, which—

The Vice-Chair (Mrs. Donna H. Cansfield): Mr. Dhillon, there's a point of order.

Mr. Rick Nicholls: Thank you, Chair. I appreciate the fact that—the member isn't speaking to the actual motion put before us. He's skating, and right now he has probably got a breakaway and he's halfway to Kingston on that frozen pond, he's skating so much.

One of the things you might be aware of, too, is the fact that by filibustering the way that the government is doing right now, you're actually delaying your clause-by-clause on Bill 21.

Just as a point of order—and again, I want to emphasize that all we're asking for is to initiate a study and a review of the Pan Am/Parapan Am Games as it pertains specifically to the financial issues, the budgets and expenses.

I know you talk about jobs and all these things. That's motherhood and apple pie, and we get that; we understand that. We're looking at financial issues, budgets and expenses. Therefore, I would ask that the member speak specifically to those specific issues. Thank you, sir.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much for that point of order.

You now have two minutes and 30 seconds, Mr. Dhillon.

Mr. Taras Natyshak: Thirty seconds?

The Vice-Chair (Mrs. Donna H. Cansfield): Two minutes and 30 seconds.

Mr. Vic Dhillon: Chair, that's fine. I'm—

Mr. John Fraser: I think we have to go around. There are more speakers.

Mr. Vic Dhillon: Yes. Chair, thank you for the opportunity.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much. Our next speaker is Mr. Jackson.

Mr. Rod Jackson: Thank you, Chair. Look, I think we're at the point now where we're past—the “move along, nothing to see here” sort of mentality needs to stop. If you really are interested in getting to the business of the people, then we'll just pass this motion one way or another and see what happens.

It is totally different, as MPP Nicholls pointed out, than the estimates committee. This would give us an opportunity to talk to a much broader range of people, some of them who maybe aren't even in the minister's office. It gives us a much broader range of getting to the bottom of what's happening. We did not get even close to getting an answer from the minister, whether it was in question period or whether it was in estimates. This will give us an opportunity to try to do that, and I would recommend, if you have nothing to hide as a government, that you will gladly have a study of this and put an end to it once and for all.

If you had just answered all the questions to this in the first place, and if we got the answers, simple answers like what the Pan Am Games are really going to cost us—we know, and I think everybody has admitted, that they're not \$1.4 billion. It's going to be much more than that. That's fine. Let's just get to the bottom of it. Let's get a real answer on what these are going to cost us, because up to this point it's been a pay-as-you-go sort of stan-

dard: “We don't have a budget on this. We don't have a budget on security or transportation, but it's a very complicated project, so we're still working it out.” We know that it's already midway through that. This will allow us to get right to the bottom of it.

You know what? You need to answer all of the questions. This gives us an opportunity, again, to hold you to it. I think that, if you have nothing to hide, you'll gladly pass this motion and we can get on with the business of the people and give them what they really want, which is the transparency and accountability that you seem to talk about all the time but never deliver.

Again, we'd like to call the question.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you, Mr. Jackson. Ms. Damerla, you have an amendment?

Ms. Dipika Damerla: Yes. Thank you, Chair. I would like to amend the motion that was tabled by MPP Scott.

I move that the word “immediately” be removed and replaced with “upon completion of public hearings and clause-by-clause consideration of Bill 105”.

The Vice-Chair (Mrs. Donna H. Cansfield): Do you have a copy available?

Ms. Dipika Damerla: Yes, I do.

The Vice-Chair (Mrs. Donna H. Cansfield): We have an amendment on the floor. Any speakers to the amendment? Ms. Damerla.

Ms. Dipika Damerla: Thank you, Chair. It's a simple but very reasonable amendment. “Immediately”? I mean, it makes no sense to do it immediately. We have business in front of this committee right now, which is the completion of public hearings and clause-by-clause consideration of Bill 105.

Before I get to that, I do take exception, Chair, to MPP Nicholls saying that jobs are just motherhood and apple pie. It's not. It's people's lives. If I told somebody who didn't have a job and was looking for a job, “Oh, that's just motherhood and apple pie,” I think they would be most upset. Bill 105 is about creating jobs. It's not motherhood and apple pie; it's the meat and potatoes of making this economy work and doing our jobs as MPPs.

I'd also like to address MPP Jackson saying that we don't answer questions. We can answer questions, if only the loyal opposition would show up.

The Vice-Chair (Mrs. Donna H. Cansfield): Ms. Damerla, you need to speak to the amendment on the floor, please.

Ms. Dipika Damerla: Thank you, Chair, but I did have to rebut the statements that were made in connection with the motion.

The Vice-Chair (Mrs. Donna H. Cansfield): Rebut it another time. You need to speak to the amendment.

Ms. Dipika Damerla: Okay. I do want to say that we have nothing to hide—absolutely nothing to hide. We're happy to work with all parties to move the agenda forward.

Anyway, I'm just going to come back to why we are proposing that we replace “immediately” with “upon completion of public hearings and clause-by-clause con-

sideration of Bill 105.” That’s because Bill 105 is probably one of the most important things we can do here in Ontario: help our small businesses. I heard many of you speak in the Legislature. I heard many of you speak out in the Legislature in support of helping small business. If you’re really, really serious about it, let’s put Bill 105 ahead of politics.

That’s why we are suggesting—personally, we don’t think we need to do this. Estimates is the place to do it, but we’re trying to be co-operative, trying to work with you, so what we are saying is, let’s do it after we finish Bill 105. We have to complete Bill 105 before we break for Christmas so that we can get it in place by January 1, 2014. That’s what the Ministry of Finance is committing to small business, so that small business can be ready in the calendar year and the taxation year that will end on March 31, 2014. In order to enable small business to be able to use this tax break that we are giving them, we have to bring it into effect on January 1, 2014.

1630

In order for us to bring that into effect on January 1, 2014, we need to get this bill passed before we break for Christmas, so let’s do the math. If we want to finish public hearings and clause-by-clause on Bill 105, as well as get auto insurance done, if we work backwards and see how many days of committee work we have, well, we’ve got to get on with this. So let’s finish this, and after that we can come back to this. The Pan Am/Parapan Am Games are not until 2015. They’re not going away anywhere. Meanwhile, small business is hurting right now as we speak. We need to help them. This can wait until 2015. The estimates process is already ongoing. Let’s give it a chance; let’s give it a fair chance. There’s nothing to hide—absolutely nothing to hide. We’re happy to work and co-operate and give you all of the information, but at this point there is a clock, and that clock is January 1, 2014. In order for us to get that done, we have to give Bill 105 priority.

This is a bill about helping small business, and I’m sure many, if not all of us, have small businesses in our riding, and all of these small businesses want this bill passed. It’s part of the budget, the 2013 budget that MPP Natyshak—I know MPP Sattler wasn’t there, but MPP Natyshak certainly voted in favour of this 2013 budget, which announced this reform. So MPP Natyshak, you voted in favour of Bill 105 indirectly by voting in favour of the budget. We voted for the budget, so let’s get it done. Let’s get Bill 105 done. These reforms are part of the budget; the reforms that are part of Bill 105 were laid out in our 2013 budget.

Just to refresh everybody’s memory, what does Bill 105 do? Businesses with annual payrolls of under \$5 million will be exempt from paying the EHT on the first \$450,000 of their payroll each year. Now, think about it. You’re a small business. You’re waiting for this to come into effect. You’re hoping it’s going to come into effect on January 1, 2014, and the only thing that’s going to stop those small businesses from getting a break is the politics that are being played out here. That’s the only

thing. Think about that. That’s what you’re carrying on your shoulders today. What you’re carrying on your shoulders today is the small business person who’s waiting for this to come into effect on January 1, 2014, but if we don’t do this work here in committee right now, it’s not going to happen. And what are you going to say to your small businesses?

This is serious stuff. Let’s not play games—

Ms. Laurie Scott: Talk some more about House leaders. I was—

Ms. Dipika Damerla: Keep going, MPP Scott. I’m happy to share my time with you.

My point, folks, is that this is serious. If we really want to give the small businesses in our ridings that break on January 1, 2014, we have to get this bill passed before Christmas. To get it passed before Christmas—think about how many working weeks we have left: probably six working weeks to get this through committee, do public hearings, do clause-by-clause and then get third reading and the debate done.

You have to ask yourself, if you went to your constituents and said, “What would you rather have us work?”—I wish you guys would do a poll. Go to your constituents and say, “On the one hand, we have something in estimates that is holding the government to account, asking for information on the Pan Am/Parapan Am Games. On the other hand, we can work to a deadline and finish work on Bill 105 so that on January 1, 2014, you guys can start getting this tax break.” What do you think they would pick for you to work on—these politics, or real work?

I really think that maybe I’m going to do that poll tonight on my Facebook, on my website, and ask folks, “What would you like MPP Harris to be working on? Would you like him to be working on duplicating work?”

Mr. Michael Harris: Send us the link.

Ms. Dipika Damerla: Yes, I will, absolutely. “Would you like MPP Harris to be wasting taxpayers’ money and wasting the time of Ontario bureaucrats, asking for needless and redundant information that has, for the most part, already been asked for in some other form or fashion? Or would you want him working on giving you that tax break?” I would love that same question to be asked of MPP Nicholls, MPP Scott, MPP Jackson. In fact, I think you should do it tonight. Technology allows us to do it, so that the next time we meet here, we can all agree and do work on Bill 105. I mean, it’s as simple as that. We have two choices here as elected MPPs: Play politics and waste time on just dragging things out and somehow making—I don’t know. It’s already in estimates; we wasted so much time on it. Or actually do something that satisfies you so that when you go to sleep at night, you can say, “You know what? I was part of that. I was part of the people who worked on that bill that gave these people a tax break.” Something you can tell your grandchildren down the road: “You know the break that small businesses get in Ontario on their health premiums? Guess what? I was part of that, and I was part of that because I refused to play politics.”

This really, Chair, to me, is a matter of priorities. You know, the opposition is training to be in government, but

if you can't get your priorities right, I'm sorry, you're not ready to govern. You've completely failed that test—

Mr. Rick Nicholls: Are you speaking to your motion?

Ms. Dipika Damerla: Yes, I am. I'm talking about why we need to do this—

Interjection.

Ms. Dipika Damerla: Let me finish. I believe I'm speaking perfectly to the amendment because my amendment says we should do this after the completion of public hearings and clause-by-clause consideration of Bill 105, and I'm speaking to why we are prioritizing this way. All along, Chair, I believe I have been speaking to the motion, because I've been talking about why we are picking this as a priority, and I'm suggesting why you may want to consider picking this as a priority as well, over just politics and wasting time. Bill 105 is about creating jobs, and what you're suggesting is really about killing jobs. It's a very clear, clear choice that you have in front of you: You want to waste taxpayer money and kill jobs or you want to help the small business guy save a penny or two, save him taxes, and help her create jobs. It's the same choice that the third party has. What would you rather be working on: creating jobs or—this is just politics. I have over here the entire estimates, the entire transcript of the estimates. I would urge you—

Interjection.

Ms. Dipika Damerla: Okay, my colleague says it's his. Thank you for lending it to me. I'm just saying, read through it. I would urge MPP Natyshak and MPP Sattler to read through it because they were not part of the estimates. MPP Jackson and MPP Harris know very well what it was, and they're still doing it. I'm going to give MPP Natyshak and MPP Sattler the benefit of the doubt that they don't know what was asked at estimates. Perhaps they are thinking that there is some value here, and I'm saying, please do your homework before you vote on this proposed motion. I hope you will consider our amendment seriously, because it's about prioritizing. That's all it is. It's not about hiding anything. The Pan/Parapan Games are not going away anywhere; they are still two years away. The estimates on it are not going away anywhere. The budgets on it are not going away anywhere. Surely it can wait six weeks. That's what we're asking for at this point.

Chair, could you give me some idea how much time I have?

The Vice-Chair (Mrs. Donna H. Cansfield): You have another five minutes.

Ms. Dipika Damerla: Excellent. Thank you, Chair.

I'm struggling to think as to what objection anybody could have to replacing "immediately" with "upon completion of public hearings and clause-by-clause consideration of Bill 105."

Let's finish that. We're not even saying "third reading vote," because we know that's not committee business. Let's just finish the committee portion of Bill 105. Should the third party be serious, really serious, about auto insurance as opposed to just posturing, if they were really serious, right about now they would be saying,

"What about auto insurance?" You would be asking that question. "Why can't we be doing hearings on auto insurance? Why are we duplicating?"—

Interjection.

Ms. Dipika Damerla: No, you're not, because unless you vote with us—and I'm happy to propose an amendment that says "after auto insurance" as well, and if you want to propose that, we are happy to do that. In fact, I think we ought to, because everybody—especially the third party—has been talking forever and ever about auto insurance. Well, let's do something about it. Why are we wasting committee time doing other stuff—

The Vice-Chair (Mrs. Donna H. Cansfield): Ms. Damerla, I'm going to remind you to speak to your amendment to the motion, please.

Ms. Dipika Damerla: Thank you, Chair. I am speaking. I was just suggesting an amendment. It's through dialogue that one can refine amendments, so the idea of adding auto insurance came to me and I thought we'd just talk about it. I was hoping it would be within the purview of allowed debate on the issue, and that I'm still speaking to it.

I believe that Bill 105 is very, very important. I'm happy to share, if any of you have forgotten, what Bill 105 is about. It's about helping small businesses. We believe more than 60,000 businesses in Ontario will see a reduction in their taxes, thanks to these reforms. I mean, this is something that I hear: reducing taxes for small business. That's something I hear the Conservatives talk about all the time; that's something I hear the NDP talk about all the time.

Well, now we have a chance to reduce taxes for small business, and what do I see? I see it being pushed out, being put at the end of the agenda and, instead, politics coming in front of it.

How are your constituents going to take you seriously? Why would they believe you when you say, "We want to reduce taxes for small business"? Because when you had the opportunity, you chose not to. It's as simple as that; it's black and white.

You have a choice: You can work on reducing taxes for small business, or you can play politics and waste taxpayer dollars asking for information that has already been asked for during study after study. There are so many ways out here to hold the government accountable that have not exhausted or used. That will tell your voters, your constituents, that all you want to do is politics and gamesmanship, and they will be very disappointed, as I am.

I'm really, really hoping we can all agree to vote on this amendment that we have brought forward. We are not saying no to what you're asking for. All we are saying is, "Let's prioritize." Let's put Bill 105—let's put the small businesses of Ontario in front of politics. Let's see what estimates comes out with.

Perhaps you will be completely satisfied with all of the answers that come out of all of the correspondence you've asked for through estimates. Anything that has the words "Ministry of Tourism"—which would be every

single email, because every staffer signs off saying, "MPP Liaison, Ministry of Tourism." Anyway, that's a whole different issue.

You're going to get every email, and more, that you will never be able to read. You're never going to get through that, never mind through this. So instead of wasting everybody's time, I urge, I implore, I beg all of you to vote in favour of this amendment. Thank you, Chair.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much.

Any other speakers to the amendment? Ms. Scott.

Ms. Laurie Scott: I just want to state that Bill 105, that supports—let me see; what is the title of the bill? It doesn't matter; it's just here. Anyway, the House leaders can decide among themselves. We all voted in support of it today, so this isn't an amendment that we support. We feel that Bill 105, the Supporting Small Businesses Act, can be discussed at House leaders'. I will not be supporting this amendment. Thank you.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much.

I'm sorry, I have Mr. Fraser. To the amendment, Mr. Fraser, please.

Mr. John Fraser: Thanks very much.

Mr. Taras Natyshak: Chair, just a point of order.

The Vice-Chair (Mrs. Donna H. Cansfield): A point of order. Yes, Mr. Natyshak?

Mr. Taras Natyshak: We're debating the amendment right now—

The Vice-Chair (Mrs. Donna H. Cansfield): We're just debating the amendment.

Mr. Taras Natyshak: And Mr. Fraser will have up to how long?

The Vice-Chair (Mrs. Donna H. Cansfield): Twenty minutes, to the amendment.

Mr. Taras Natyshak: And after he speaks, then the anticipation is what?

The Vice-Chair (Mrs. Donna H. Cansfield): To see if there are any additional speakers to the amendment.

Mr. Taras Natyshak: Okay. Can I call a 20-minute recess on this amendment to discuss with our House leader?

The Vice-Chair (Mrs. Donna H. Cansfield): Certainly. Twenty minutes.

The committee recessed from 1644 to 1704.

The Vice-Chair (Mrs. Donna H. Cansfield): The recess is over. We have an amendment on the floor, an amendment to the motion. Do I have any further speakers to the amendment?

Mr. Rick Nicholls: Point of order.

The Vice-Chair (Mrs. Donna H. Cansfield): Yes, a point of order.

Mr. Rick Nicholls: Chair, I'd like to call for a five-minute recess, please.

The Vice-Chair (Mrs. Donna H. Cansfield): A five-minute recess?

Mr. Rick Nicholls: Yes.

The Vice-Chair (Mrs. Donna H. Cansfield): All right, that's in order.

Mr. Rick Nicholls: Thank you.

The Vice-Chair (Mrs. Donna H. Cansfield): Five minutes. It is now 5:04, and so in five minutes, it'll be 5:09.

The committee recessed from 1704 to 1708.

The Vice-Chair (Mrs. Donna H. Cansfield): The five-minute recess is up. Are there any further comments on the amendment to the main motion? Mr. Fraser.

Mr. John Fraser: Yes, thank you, Madam Chair. I'm happy to say that I'm going to support the amendment.

I do want to say that we just had a conversation across the table about how we got things done in business. We have some business in front of the committee, and this issue has been discussed at estimates. There's a request before estimates. We have Bill 105, which we all voted unanimously on this morning. It's not a complicated bill; it's a simple bill. It's something we should get done. The way the original motion is worded, it makes me call into question whether Bill 21 is going to be affected by this. As well, the members opposite called for a further study and review of auto insurance rates, which is a priority for them.

What we're seeing is that this thing that we've already studied at another committee is so important that we have to bring it back and change all the committee's business because of that.

From my perspective, if you've got an order and a precedence of things that you want to do, I understand that the House leaders can work things out amongst themselves, but we're a committee here. I respect the opposition's—I've been there before, to hold the government to account. But that doesn't mean that we take time away from those things that are going to immediately affect the lives of Ontarians. We had Bill 21—we had four people presenting here today; it's an important bill; Bill 105, something we all agreed on today; auto insurance rates, a priority; we want to put all that aside.

I just want to be on the record saying that I support this amendment. Thank you very much, Madam Chair.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much. Any further comments on the amendment to the motion? Seeing none, I will put the amendment on the floor.

All those in favour of the amendment? All those opposed? The amendment has failed.

Ms. Dipika Damerla: I have another amendment.

The Vice-Chair (Mrs. Donna H. Cansfield): Do you have a copy?

Ms. Dipika Damerla: Yes.

Mr. Taras Natyshak: Point of order.

The Vice-Chair (Mrs. Donna H. Cansfield): Point of order.

Mr. Taras Natyshak: In order of precedence, or in order of standing—

The Vice-Chair (Mrs. Donna H. Cansfield): I'm sorry?

Mr. Michael Harris: We have to vote on the general motion.

Mr. Taras Natyshak: Yes. The question was called by the member from Chatham–Kent–Essex on the original motion, and then you had indicated that you'd like to hear debate from the members of the committee. We did that, and then there was a subsequent amendment to the motion. We heard some language on that, then we voted on that. Do we not revert back to the original call of the question?

The Vice-Chair (Mrs. Donna H. Cansfield): The question was never called on the main motion.

Mr. Taras Natyshak: Yes, it was.

The Vice-Chair (Mrs. Donna H. Cansfield): At the beginning it was.

Interjection: He called it.

The Vice-Chair (Mrs. Donna H. Cansfield): That's correct; Mr. Nicholls did call, but we determined that

there had to be sufficient debate on the main motion, and I'm taking my cue from the Clerk that the word "sufficient" should be broadly interpreted in terms of "sufficient." Then, an amendment was put forward. We've had the debate on the amendment. No further debate, so the amendment has failed, and now we're going to entertain another amendment.

Ms. Dipika Damerla: Chair, I'm actually going to withdraw the amendment.

The Vice-Chair (Mrs. Donna H. Cansfield): So you're going to withdraw the amendment, so we're back to the main motion. Is there any further debate on the main motion?

All those in favour of the main motion? All those opposed? The main motion passes.

This committee is adjourned.

The committee adjourned at 1713.

CONTENTS

Monday 4 November 2013

Subcommittee report	G-317
Employment Standards Amendment Act (Leaves to Help Families), 2013, Bill 21, Mr. Naqvi / Loi de 2013 modifiant la Loi sur les normes d'emploi (congés pour aider les familles), projet de loi 21, M. Naqvi	G-317
Alzheimer Society of Ontario	G-317
Ms. Delia Sinclair	
March of Dimes Canada.....	G-321
Ms. Andria Spindel	
Mr. Steven Christianson	
Ontario Home Care Association	G-323
Ms. Sue VanderBent	
Ontario Caregiver Coalition	G-326
Mr. Caphan Lieu	
Mr. John Parkhurst	
Canadian Cancer Society	G-329
Ms. Joanne Di Nardo	
Committee business.....	G-331

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CA 28N
XC 16
G 23



G-22

G-22

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Second Session, 40th Parliament

Assemblée législative de l'Ontario

Deuxième session, 40^e législature

Official Report of Debates (Hansard)

Wednesday 6 November 2013

Journal des débats (Hansard)

Mercredi 6 novembre 2013

Standing Committee on General Government

Employment Standards
Amendment Act
(Leaves to Help Families), 2013

Comité permanent des affaires gouvernementales

Loi de 2013 modifiant
la Loi sur les normes d'emploi
(congés pour aider les familles)



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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Wednesday 6 November 2013

Mercredi 6 novembre 2013

*The committee met at 1604 in committee room 2.*EMPLOYMENT STANDARDS
AMENDMENT ACT
(LEAVES TO HELP FAMILIES), 2013
LOI DE 2013 MODIFIANT
LA LOI SUR LES NORMES D'EMPLOI
(CONGÉS POUR AIDER LES FAMILLES)

Consideration of the following bill:

Bill 21, An Act to amend the Employment Standards Act, 2000 in respect of family caregiver, critically ill child care and crime-related child death or disappearance leaves of absence / *Projet de loi 21, Loi modifiant la Loi de 2000 sur les normes d'emploi en ce qui concerne le congé familial pour les aidants naturels, le congé pour soins à un enfant gravement malade et le congé en cas de décès ou de disparition d'un enfant dans des circonstances criminelles.*

The Vice-Chair (Mrs. Donna H. Cansfield): I'd like to call the meeting to order. We are going to go clause by clause on An Act to amend the Employment Standards Act, 2000 in respect of family caregiver, critically ill child care and crime-related child death or disappearance leaves of absence.

The first section of the bill is section 1. Are there any comments, questions or amendments to this section of the bill?

Mr. Vic Dhillon: No.

The Vice-Chair (Mrs. Donna H. Cansfield): No? Seeing none—

M^{me} France Gélinas: Just let me get organized. My first motion is in section 3, so we're on—

The Vice-Chair (Mrs. Donna H. Cansfield): We're on section 1. So on section 1, if there are no comments, questions—seeing none, the section passes. Shall it carry? All those in favour? Those opposed? Section 1 carries.

Section 2: We have a government motion. I forgot. I wanted to tell you there's a new amendment 4.1 that you've been given—a new government amendment 4.1. So first on section 2, government motion: Mr. Dhillon.

Mr. Vic Dhillon: I move that section 2 of the bill be amended by adding the following subsection:

“(0.1) The French version of subsection 49.1(7) of the act is amended by striking out”—my French is not

good—“périodes d'une semaine complète” and substituting “périodes de semaines complètes.””

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much.

Mr. Vic Dhillon: I hope that's acceptable, makes sense.

The Vice-Chair (Mrs. Donna H. Cansfield): Any comments or questions?

Mr. Randy Hillier: I wouldn't mind hearing a translation on that.

The Vice-Chair (Mrs. Donna H. Cansfield): Would you like to—

M^{me} France Gélinas: I can translate it, if you want. Basically, it goes from “a period of a complete week” to “a period of complete weeks.”

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much for that.

Are there any further comments, questions or amendments to section 2? Seeing none, shall this government motion carry? All those who are for? All those opposed? Thank you.

Ms. Peggy Sattler: Opposed.

Mrs. Donna H. Cansfield: We'll do this again. Shall the section carry, as amended? All those in favour? All those opposed? Thank you. The section shall carry, as amended.

The next section is section 3. We have the first motion. Number 2 is an NDP motion. Could I ask who will be speaking to—

Interjection.

The Vice-Chair (Mrs. Donna H. Cansfield): Ms. Sattler? Thank you.

Ms. Peggy Sattler: I move that the definition of “qualified health practitioner” in subsection 49.3(1) of the act, as set out in section 3 of the bill, be struck out and the following substituted:

“‘qualified health practitioner’ means,

“(a) a person who is qualified to practise as a physician, a registered nurse or a psychologist under the laws of the jurisdiction in which care or treatment is provided to the individual described in subsection (4), or

“(b) in the prescribed circumstances, a member of a prescribed class of health practitioners.”

The Vice-Chair (Mrs. Donna H. Cansfield): Any further comments that you'd like to make? Ms. Gélinas?

M^{me} France Gélinas: Sure. Basically, we want to broaden the people who can attest that the person needs to have family caregiver leave.

We are moving in Ontario more and more toward interdisciplinary care, where it could very well be that you never see a family physician, not because you can't have access to one—that could happen, if you live in northern Ontario—but simply because they are not the professional whose ability best suits your needs.

It could very well be that your loved one is in care for mental health. There are professionals out there who have way more ability than a physician to be able to say if you need mental health care, and that could include a psychologist, for example.

We want the bill to not only be for now, but to be for what we want it to be: Ontarians should have access to interdisciplinary care, where the person with the right sets of skills offers you the right sets of care at the right place. We hear the Minister of Health talking about this all the time, the right care at the right place by the right providers, and yet, here again in November 2013, we write in bills that “only a physician can do.” I'm past this and Ontarians are past this. We reach out to the professionals who can best help us, and our bills should reflect that.

1610

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much. Any further comment? Mr. Dhillon?

Mr. Vic Dhillon: We won't be supporting this motion, because the additional practitioners that we're talking about cannot prescribe, and the Ministry of Health has some concerns that if these people cannot diagnose a situation, how can they make an analysis about that condition? There are regulatory powers with the ministry to consider certain situations.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much. Ms. Scott?

Ms. Laurie Scott: I just want to ask a few questions. I don't agree with part (a) of the motion, for sure. Can I maybe ask legal counsel this? Would this be in regulation? Could this be addressed in regulation?

Ms. Julia Hood: Yes. Both the provision that's currently in the bill and the one being proposed contain power to prescribe classes of health practitioners by regulation. With either one, if brought into force, you could make a regulation under it prescribing health practitioners for the purposes of this definition.

Ms. Laurie Scott: Okay. But if this amendment doesn't go through, is it just doctors?

Ms. Julia Hood: No. In the bill right now, there is the power to prescribe classes of health practitioners. Either one will allow for regulations that do that.

Ms. Laurie Scott: By bringing this in, is that going to affect the legislation at all?

Ms. Julia Hood: Well, the difference would be that, as amended, registered nurses and psychologists would immediately be brought into the definition. In the bill, a regulation would have to be made prescribing them in order to bring them into the definition.

Ms. Laurie Scott: Okay.

The Vice-Chair (Mrs. Donna H. Cansfield): Any further questions? Ms. Damerla?

Ms. Dipika Damerla: I just wanted to clarify. By putting in registered nurses and psychologists, we actually create an anomalous situation now, because these two classes don't have the authority to prescribe right now. To add it through this bill is anomalous, because the law doesn't allow them to prescribe. How are they going to be able to diagnose and say, “This person has a very serious illness”? Because they're not allowed to do that. To put it in through here creates an anomalous situation.

Interjection.

Ms. Dipika Damerla: Let me finish. Through regulation we could—for instance, in the north, where you have registered nurse practitioners, regulation would allow us to allow them to give a medical certificate. It is in the way the act is worded right now, because it says “in prescribed circumstances, prescribed classes of people can.” That would capture in the north where you don't have, say, a doctor or things like that.

The Vice-Chair (Mrs. Donna H. Cansfield): Ms. Gélinas?

M^{me} France Gélinas: The ability to prescribe has nothing to do with the ability to meet your needs. The ability to prescribe has to do with drugs and medication. You may very well not need a drug whatsoever. What we're putting forward is, really, professionals that people turn to for which you may very well need a family member to help you. This is in line with what we see in reality. In reality, you're often under the care of a registered nurse. You could very well be under the care of a psychologist. I have no problem with the others being in, but to link it to the ability to prescribe drugs is completely irrelevant.

Interjection.

The Vice-Chair (Mrs. Donna H. Cansfield): Excuse me. I have a speaking list. Ms. Damerla, please.

Ms. Dipika Damerla: Thank you, Chair. What we're getting at is saying that the ability to prescribe is the broader thing of the ability to diagnose. If I can't diagnose that this person has a very serious medical condition—that has to be diagnosed by a physician as it stands currently. A nurse cannot do that. The person who is diagnosing it is probably the person who is going to give that certificate.

There are some real concerns that we are broadening the scope of practice indirectly by passing this amendment, because this class, which is just the nurse—not even the nurse practitioner, but a registered nurse—they're not going to be diagnosing that this person has this kind of very serious illness. That's going to be diagnosed by the doctor, and the doctor is the person who is going to be able to say, “This is a very serious illness. Hence, I say to the employer, ‘You need to give this person caregiver leave.’” The nurse wouldn't be making that diagnosis.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you. Mr. Fraser?

Mr. John Fraser: Just to what my colleague just said, my mom is a registered nurse, and so it has got nothing to do with being a nurse or a psychologist other than the

fact that they don't have the ability to communicate a diagnosis. Okay?

We have some classifications right now, like nurse practitioner. I think it's something that we can deal with in regulations because it is evolving and we have to take a look at that. Who are the people who can make this determination in fairness to the families and in fairness to those other people involved, the employers?

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you. I have Ms. Scott first.

Ms. Laurie Scott: Do any of you want to speak to this?

Mr. Randy Hillier: Yes.

Ms. Laurie Scott: I'll let Randy go.

The Vice-Chair (Mrs. Donna H. Cansfield): I have a speaking list.

Ms. Laurie Scott: Okay.

The Vice-Chair (Mrs. Donna H. Cansfield): Can I ask Ms. Gélinas first before Mr. Hillier?

M^{me} France Gélinas: Sure. A serious medical condition is not a diagnostic. You can ask anybody who is allowed to diagnose. A serious medical condition is not a diagnostic. A diagnostic is, you have a broken leg, sure; a broken femoral—whatever. But a serious medical condition is not a diagnostic.

The bill has been written that you will be allowed to have care if you have a serious medical condition, which is not a diagnostic. It is a term that is used by insurance companies full flat out. I have been opposed to this use of these words, but this is what the legislation was being written on. So it makes no difference.

In life, you will have seen a number of physicians and other health care professionals that will have given you a number of diagnoses, but it does not mean that because I have a diagnosis, I have a serious medical condition. I may very well have a diagnostic of cancer, but right now I'm in remission and I'm still fine, but I still have a diagnostic of cancer. The two are not related.

This is 2013. We moved toward interdisciplinary care. Those people are the people who will be helping out people with serious medical conditions so that they can have a family caregiver. That's all.

The Vice-Chair (Mrs. Donna H. Cansfield): Mr. Hillier?

Mr. Randy Hillier: Just to further this a little bit—I think we got a little bit off track with prescriptions and diagnostics and whatnot. The way the bill is right at the moment, only physicians have the authority to authorize that leave. The bill also authorizes the Ministry of Health, the administration or the bureaucracy in the Ministry of Health, to broaden that out at some later time through regulation.

Now, we can either allow the bureaucrats at the Ministry of Health to make law or maybe we can do that here, in the Legislature. I would suggest to the committee here that this is a fair and reasonable amendment and it would go significantly to assist those people in outlying, rural and northern communities and elsewhere, in places where there is a known shortage of physicians, that we

allow that to happen now. The whole bill is structured in a manner that provides latitude. That's really what this bill is doing, and if you look through the whole language of the bill, it is to provide latitude.

I think the NDP amendment is fair and reasonable, and it has nothing whatsoever to do with the ability to prescribe medications or make diagnostics. I had a nurse visiting my mother on the weekend and she said, "You should go to the hospital and have an X-ray." You could say that's a diagnosis.

Nurses are professional. They have a code of ethics that they are bound by. I think there's really not much point in discussing it further. I think it should just be adopted.

1620

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you. Ms. Damerla.

Ms. Dipika Damerla: I do want to make the point that the bill leaves it to the physician in this case, as it's written, to decide what is serious and what isn't. So it's not just about the diagnosis.

MPP Gélinas, I know you're a nurse, so you know a lot more than I do—

M^{me} France Gélinas: Physiotherapist.

Ms. Dipika Damerla: Oh, you're not? I'm sorry; I stand corrected.

Interjection: Laurie is a nurse.

Ms. Dipika Damerla: Yes, that is true.

I agree that the diagnosis is the broken leg, but who decides if this is really serious enough that a caregiver needs to take time off? That's the discretionary part, because the act is silent on what is serious. As we broaden the scope of who can say this is a serious illness, maybe even I can say that if somebody is going to be dying in 26 weeks, it's a serious illness. Even a layperson can make that determination.

Because the act is silent on what is serious and it's being left to an expert—not just the diagnosis, but a decision on whether this is serious or not—what we have said is: Let it be a physician. In prescribed circumstances where there is a shortage of physicians, we can expand that, but to just unilaterally expand that across the province, especially a registered nurse, not even a nurse practitioner—I think that we are broadening the scope at this point of what their professional abilities are.

If you want to do that, let's do that through the Ministry of Health and legislation there, not through an act through the Ministry of Labour.

The Vice-Chair (Mrs. Donna H. Cansfield): Are there any further comments or questions? Seeing none, shall the section carry, as amended?

Interjection.

The Vice-Chair (Mrs. Donna H. Cansfield): Sorry, I have to pass the amendment first.

All those in favour of the amendment? All those opposed? Thank you very much. It's carried. Section 49.3(1) is carried, as amended.

Next we go to number 3, an NDP motion. Ms. Sattler.

Ms. Peggy Sattler: This is for section 3 of the bill, section 49.3 of the Employment Standards Act, 2000.

I move that section 49.3 of the act, as set out in section 3 of the bill, be amended by adding the following subsection:

“No fee for certificate

“(2.1) A qualified health practitioner shall not charge a fee for a certificate issued for the purposes of this section.”

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much. Any further comments? Ms. Gélinas.

M^{me} France Gélinas: I think it's self-explanatory. More and more, when you need a health practitioner to write a note for anything, this is something that is not covered by OHIP. Therefore, this is something that physicians tend to charge for.

The fees have not been regulated and are all over the map, and they are sometimes really outrageous for what you ask of them. This is something that people, if they need the note, should not have to pay for.

The Vice-Chair (Mrs. Donna H. Cansfield): Any further comments? Mr. Hillier.

Mr. Randy Hillier: I understand what the NDP motion is and the good intent behind the motion, and have no disagreement with the intent.

I think what we often see, though, with well-intended amendments—I would phrase it like this: If health care professionals are not allowed to charge a fee, would we not and do we not run the unintended consequence of people not issuing those certificates because there is no monetary reimbursement? We've seen this in the past, where people end up going to more and more different places to try to find something because the professionals are not going to give a freebie without some reimbursement.

I do fear that unintended consequence with that well-intended amendment and I would suggest that people vote against it.

The Vice-Chair (Mrs. Donna H. Cansfield): Mr. Bartolucci?

Mr. Rick Bartolucci: I think the motion—I think there is every good intention in this. We all, when I was a teacher, had to be concerned, because a teacher who was off for a day had to get a note etc. When they're a professional, they shouldn't have to.

But I think this goes beyond the scope of the Employment Standards Act, because I don't think it's a term of employment. So, as well-intentioned as this may be, this would cause, I would think, great concern with the physicians and surgeons as well as the Ministry of Health and Long-Term Care. I don't know that I'd be supporting it.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much. Any further comments or questions? Ms. Gélinas?

M^{me} France Gélinas: It would be a very sad state of affairs if we have come to the point where needed services to a client would be withdrawn on the basis of

money. I would be really, really disappointed in our health care professionals if they started to do that.

I can tell you right now that if a professional does that, call their college right away. They will be called in front of their college, they will have to answer to them, and there's a good chance that they will have something on their record or lose their licence to practise.

I don't disagree with MPP Hillier that this is a practice that we see in Ontario, but it should not be so. It is illegal. When it does happen, if it's a physician—most of the time, it is—call the College of Physicians and Surgeons. They will be very happy to follow up for you. This practice is illegal. If we put it in the bill, nobody will be charged. If somebody doesn't provide the service, there's a good chance they will lose their licence for not doing so.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much. Any further comments or questions? Seeing none, I'll call the question on the motion.

M^{me} France Gélinas: Recorded vote.

The Vice-Chair (Mrs. Donna H. Cansfield): A recorded vote, please.

Ayes

Gélinas, Sattler.

Nays

Bartolucci, Damerla, Fraser, Harris, Jackson, Scott.

The Vice-Chair (Mrs. Donna H. Cansfield): The motion is lost.

Section 49.3: Shall the section carry?

Interjection.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you.

The next motion is number 4. It's an NDP motion: Ms. Sattler?

Ms. Peggy Sattler: I move that section 49.3 of the act, as set out in section 3 of the bill, be amended by adding the following subsection:

“Serious medical condition

“(2.2) For greater certainty, a serious medical condition referred to in subsection (2) includes a condition that is chronic or episodic.”

The Vice-Chair (Mrs. Donna H. Cansfield): Ms. Gélinas?

M^{me} France Gélinas: The fact that “serious medical condition” is not something that you can find in any of the OHIP code books, and there are 29,000 codes in there—you're not going to find “serious medical condition” in there.

It is important to show that although a chronic condition such as COPD or asthma may not be in itself a serious medical condition, it may, in certain circumstances, flare up. That happens a lot with certain conditions, such as arthritis and multiple sclerosis. The person

may have a diagnosis of multiple sclerosis and be doing absolutely fine, and all of a sudden it flares up.

Although we would never have used that language, if we are to use “serious medical condition,” then to say that “chronic or episodic” is included, I think, would help a lot of people who live with a chronic condition who find themselves, every now and again, needing the help of a caregiver.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much. Ms. Damerla?

Ms. Dipika Damerla: Thank you, Chair. I get the intent of what the NDP is trying to do, but the concern is that, the way it is worded now, it might inadvertently come to mean that all chronic or episodic illnesses are serious.

We actually have a motion that accomplishes, I think, what the NDP wants to do but might be more clear. If you give me permission, I can introduce it now, or I know that—

Mr. Randy Hillier: I'd like to speak to the first one.

Ms. Dipika Damerla: Yes, okay.

1630

The Vice-Chair (Mrs. Donna H. Cansfield): You can look at the other one at 4.1, but Mr. Hillier, you'd like to speak?

Mr. Randy Hillier: Thank you, Chair. This motion and the next one, 4 and 4.1, are very similar. They're meant to achieve the same thing. I would just give my thoughts to the committee here on this. At the present time, the bill says “a serious medical condition.” It doesn't preclude anything else. Again, going back to what I said earlier, it's purposely very broad, with lots of latitude: “a serious medical condition.”

I know that when others look at the law, and interpret, arbitrate and adjudicate on the law, the words that are in the bill are very, very important. I'm just wondering if we're actually not achieving what you want to achieve by adding in these words, such as “chronic” and “episodic.” Right now, “chronic” and “episodic,” because they're not excluded, are included, and anything else that may be a “serious medical condition” is already captured by the bill, in the language in the bill.

That would be my comment to the committee. I don't see motion 4 or 4.1 as really benefitting those who may actually use this bill down the road. I think we want to give our physicians and our health care professionals as much latitude as possible to help those who are in need, so I think both 4 and 4.1 might not achieve what it is that the movers are trying to achieve with them.

The Vice-Chair (Mrs. Donna H. Cansfield): Any further comments? Ms. Gélinas?

M^{me} France Gélinas: Although “serious medical condition” is not something that is used within the OHIP codes and it's not something that is used by physicians, it is a term that is used by insurance companies to deny coverage. This terminology, “serious medical condition,” is used within the insurance industry over and over and over, and we already know that within the insurance industry the definition of “serious medical condition”

excludes “chronic” and “episodic.” That's why I want it in.

But this being said, I have now read your 4.1, where it's identical and it says “may include.” I have no problem. If you're going to vote yes to yours, I have no problem withdrawing ours. We will vote in favour of theirs.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you. So we'll withdraw motion number 4. Any further comments? All in agreement to withdraw? Thank you.

We'll go to government motion 4.1. Ms. Damerla?

Ms. Dipika Damerla: I move that section 49.3 of the act, as set out in section 3 of the bill, be amended by adding the following subsection:

“Serious medical condition

“(2.1) For greater certainty, a serious medical condition referred to in subsection (2) may include a condition that is chronic or episodic.”

The Vice-Chair (Mrs. Donna H. Cansfield): Any comments or discussion? Seeing none, all those in favour of the motion? None opposed? The motion carries.

Number 5 is a government motion. Ms. Damerla?

Ms. Dipika Damerla: Apparently the original translation was wrong, so we are only correcting the translation. It wasn't clear to me why the NDP members voted against it, because all we are doing is fixing the translation from English to French. We're not changing anything. I just wanted to clarify that.

The Vice-Chair (Mrs. Donna H. Cansfield): Any comments or questions? Would you like to move the motion?

Ms. Dipika Damerla: I move that the French version of subsection 49.3(5) of the act, as set out in section 3 of the bill, be amended by striking out “périodes d'une semaine complète” and substituting “périodes de semaines complètes”.

The Vice-Chair (Mrs. Donna H. Cansfield): Any further comments or questions?

Seeing none, shall the motion carry? All those in favour? Those opposed? The motion carries.

M^{me} France Gélinas: You didn't ask if it was opposed.

The Vice-Chair (Mrs. Donna H. Cansfield): I did. Sorry. I did ask, “Is anybody opposed?” I apologize. I did ask. Maybe I was away from the microphone.

We have the next motion, number 6, which is an NDP motion. Ms. Sattler.

Ms. Peggy Sattler: I move that subsection 49.3(5) of the act, as set out in section 3 of the bill, be struck out.

The Vice-Chair (Mrs. Donna H. Cansfield): Any further comments? Ms. Damerla, Mr. Hillier?

Ms. Dipika Damerla: We're not able to support this for a number of reasons. One is, I just wanted to clarify that nothing in the way the act is worded now stops the employer from granting to the employee a couple of days, so that flexibility is already built in. What this does allow is for the employer to do some planning. If you were a machine shop and you needed to replace the operator, sometimes you have to do it in a period of a week to

get the new operator to come in. So it gives the employer the flexibility to either say, "Listen, you have to take the entire week off," or the employer and employee could come to an understanding that says you only need to take two or three days.

The other thing is, if we remove this section, it also makes it as if the 40 days are now available through the year, almost like your personal emergency leave which there are already 10 days of. The evidence suggests that many Ontarians seem to have personal emergencies on a Monday and a Friday.

Then the other thing is, we are trying to get EI for this and EI is given in chunks of a week. That's one of the main reasons we have worded it this way, so that people who get this time off can become eligible for EI.

These are all some of the reasons we're not able to support the amendment.

The Vice-Chair (Mrs. Donna H. Cansfield): Mr. Hillier?

Mr. Randy Hillier: This was brought up often during the debate on this bill. The one area of the bill that didn't provide flexibility was this weekly time frame. It was brought up during the debate often.

I'll just go back. This is the second incarnation of this bill. We had a previous incarnation before prorogation, and this bill has been revamped and improved substantially from the first one, but I'm sort of disappointed that the government is still sticking with this whole week time frame.

There are a couple of things I'll say. First off, what you just previously said I think speaks to the whole bill. At the present time, employees and employers can make arrangements right now for unpaid leave, and it happens all the time. Actually, when I questioned the Ministry of Labour on this, they had no evidence or any indication that people were being denied unpaid leave to help a sick family member.

But now that you're down this road, creating a bill to provide, legislate and guarantee unpaid leave, I think the bill ought to reflect the practice of employees and employers, and that is, sometimes you need to take a day or two and not a whole week.

1640

To that final point about EI, it was discussed, but it was never brought up as a motivation for this bill by the minister, when I was briefed with the staff, that the purpose of the bill was to blend it in with employment insurance. I don't know if that's a truthful statement or not, or a factual statement, but I would support the NDP motion that we provide that flexibility—

Ms. Dipika Damerla: Chair, objection. Point of order.

The Vice-Chair (Mrs. Donna H. Cansfield): Excuse me, a point of order. Can I have a moment, please? A point of order.

Ms. Dipika Damerla: I'm a little concerned about the motive being attributed by saying "not truthful" or that's—

Mr. Randy Hillier: Not accurate or factual.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much. Could we try to—

Mr. Randy Hillier: I withdraw any slight; I didn't mean it to be a slight. It was not something that had ever been brought up in my briefings.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much.

Ms. Gélinas—oh, sorry, Ms. Damerla first.

Ms. Dipika Damerla: Thank you. I did want to say that a number of larger companies do need to be able to plan and replace, especially on an assembly line. It's very hard if people are going to take a day off here, a day off there. We're trying to strike a balance here between the needs of employees and the needs of employers, and then there is the very real issue of whether somebody would be able to get their EI if they're going to take a day here and a day there as opposed to having to take it in chunks of a week, because that's how EI works.

I think it leads to pretty strong drivers to leave it as is, given the fact that there is nothing in this act that stops the employer and employee from saying—and the fact is, for the most part, if the flexibility is there, the employer would rather that the employee only take two days off if they only want to take two days off, as opposed to taking an entire week off. It's to both their advantages to minimize the time that's taken off. This ensures that where an employer needs to plan, they can plan, and it also ensures that long term, we can bring in EI.

These are some of the points that I'd like to reiterate.

The Vice-Chair (Mrs. Donna H. Cansfield): Ms. Gélinas.

M^{me} France Gélinas: Basically, all of the health organizations that have come to see us that have come to testify—the Alzheimer Society, the Canadian Cancer Society, the Heart and Stroke Foundation, the March of Dimes, the Ontario Association of Community Care Access Centres, the Ontario Caregiver Coalition, Saint Elizabeth, the Ontario Home Care Association—they all said the same thing. They said what Mr. Hillier has said: When things go well, you don't need a law. You don't need the protection of a law when you get along with your employer. It's when things go bad that you will need the backup of a law.

Who are we talking about? We're talking about people in precarious employment. It is not the people with a union and the people with a steady full-time job who need a bill like this. Actually, there are very, very few people who will need that bill. The people who will need it are people in precarious employment. The people in precarious employment can't afford to take a week off without pay to take their mother to that very, very important medical appointment. They can't afford to take a week off at a time because they take their child to their oncology appointment once a week, and the employer will force them to take a whole week off.

Very few people need that bill. For the very few who will need the protection of the law that this bill will bring forward, they need to be able to take one day at a time. When things go well, people don't need us. If and when

anybody ever makes use of that bill—the way it is written now, I cannot see the day when anybody will need it. But we can actually make it in a way that it is relevant to people in precarious employment, and that's by giving them the opportunity to take a half a day off to miss as little pay as possible, but still be there for their mother and grandmother and sick kids. This is what we're trying to do.

The Vice-Chair (Mrs. Donna H. Cansfield): Mr. Hillier.

Mr. Randy Hillier: Just to further this, I think the comments put some perspective in here, and the comment was for large employers and whatnot—there are a number of employers for whom it would be more convenient and easier to plan on a week off work than a day here or a day there.

But let's not forget, not everybody works for a large, industrial concern. There are many, many people—and this is what France was talking about—in very small employment shops, very small employers, who probably don't have the same level of protection of a large industrial employer to begin with. To give an advantage to those who already have an advantage and to actually make it worse for those people who don't have those advantages, I think that's where this whole concept runs into some problematic features like this.

Regardless of that, I still believe the NDP motion should carry, provide that flexibility. It will be some inconvenience for some of those large, industrial employers, but I don't think we can forsake the small employers for the large.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you, Mr. Hillier. Any further comments? Mr. Fraser.

Mr. John Fraser: I just want to say that I think the intent in the bill is to balance the interests between the employers and the employees. I think, to the member's statement before, that people in precarious employment—I understand that. But there are also people who exist in small businesses who are in precarious small businesses. That's what the intent of the bill was: to try to balance those two things, because that's—

Interjection.

Mr. John Fraser: What's that?

Mr. Randy Hillier: I don't think it's done.

Mr. John Fraser: No, no. I wanted to make that clear.

The Vice-Chair (Mrs. Donna H. Cansfield): Ms. Sattler.

Ms. Peggy Sattler: The other concern that I would have is that an employee might be reluctant, because of their feeling of responsibility to their employer, to take advantage of this leave if they felt that they had to be away from their job for a full week. We may be creating barriers to people to accessing the employment—in fact, it may be more convenient for employers to have their employees just taking the leave in half-day or full-day periods. I think that removing this definition or this requirement actually creates or provides greater benefits to both employees and employers.

The Vice-Chair (Mrs. Donna H. Cansfield): Any further comment? Ms. Scott?

Ms. Laurie Scott: Can I just ask for a 10-minute recess?

The Vice-Chair (Mrs. Donna H. Cansfield): Yes. Everybody in agreement to a 10-minute recess? Agreed. Ten minutes, which will be 4:58. How's that?

The committee recessed from 1648 to 1656.

The Vice-Chair (Mrs. Donna H. Cansfield): The meeting will come to order. Is there any further discussion on the NDP motion?

All those in favour of the motion? All those opposed to the motion? The motion carries.

The next motion is a government motion. Mr. Dhillon.

Mr. Vic Dhillon: I move that subsection 49.4(1) of the act, as set out in section 3 of the bill, be amended by adding the following definition:

“‘child’ means a child, step-child or foster child who is under 18 years of age;”

The brief explanation is that this amendment would clarify that the definition of child for the purpose of critically ill child care leave would include stepchildren and foster children under 18 years of age.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much. Any further comments or questions? Mr. Jackson.

Mr. Rod Jackson: Thank you. I agree with the motion. I just wonder, actually—and I think the spirit of this will probably include children that are in our guardianship as well. Would that be what is considered a definition of foster child?

Ms. Julia Hood: I'm not able to answer that question. That might be somebody from the ministry—

The Vice-Chair (Mrs. Donna H. Cansfield): Is there someone from the ministry here that could answer that question?

Interjection.

The Vice-Chair (Mrs. Donna H. Cansfield): The question is, does the issue of guardian fall under the definition of foster child?

Please state your name, sir, for Hansard.

Mr. John Hill: My name is John Hill. I'm general counsel with the Ministry of Labour, legal services branch.

Frankly, I'm not sure of the answer, so I'm not going to tell you that I do know the answer. If we're talking about someone that has lawful custody and is in the position of a parent, I think probably the answer is yes, but I will have to go and research that. I do not know the answer for sure.

Mr. Rod Jackson: Thank you. If I may, Chair—

The Vice-Chair (Mrs. Donna H. Cansfield): Yes.

Mr. Rod Jackson: Like I said, I agree with this amendment. I just wonder, if you consider—I don't know the wording, and maybe legal counsel could help with this. I think it's important in a case where perhaps there's an aunt or an uncle that has been given guardianship of a child for whatever reason. They're not a foster child, nor

are they a stepchild. They kind of fall into a different category, in which case this may not apply.

The Vice-Chair (Mrs. Donna H. Cansfield): Would you like to make an amendment to the motion?

Interjections.

The Vice-Chair (Mrs. Donna H. Cansfield): Mr. Jackson has the floor at this moment.

Mr. Rod Jackson: I'd like to ask for some—I'm not sure what the wording would be to make sure that we could make that included as a friendly amendment there. I'd look to legal counsel, maybe, for some advice on what wording might work.

Ms. Julia Hood: I think we might need to take a recess to discuss that.

Mr. Rod Jackson: Okay.

The Vice-Chair (Mrs. Donna H. Cansfield): Could we take a five-minute recess? Is everybody in agreement for a five-minute recess so we could—is everyone in agreement for a five-minute recess?

Mr. Vic Dhillon: Can I just make a quick point before the recess? This may address the concern.

This definition would be consistent with the federal law under the Employment Insurance Act, and I believe that would address guardianship.

Ms. Dipika Damerla: —consistent with the federal law and employment insurance as well, so I'm not sure if just changing it on the fly—

Mr. Vic Dhillon: That's a good point, though.

Mr. Rod Jackson: So it would be included—

Mr. Vic Dhillon: I would think so.

The Vice-Chair (Mrs. Donna H. Cansfield): So could we defer—

Mr. Randy Hillier: Madam Chair?

The Vice-Chair (Mrs. Donna H. Cansfield): I think the important part here is that you want to find a way to ensure that guardianship is defined in this section, and at this point legal counsel is not sure of that; is that correct? So I wonder if we should take a five-minute recess?

Mr. Randy Hillier: Maybe a comment might add some clarity, should we choose to go to a recess or not. My comments on this motion are this, and I can see where the confusion is maybe starting to come in as you're trying to blend this and tie it in with federal EI laws. Remember that at the present time, it's called the unpaid caregivers act. That's where we're going to run into a few little troubles, if you're saying that the act is an unpaid leave and then trying to blend it in with a paid program on the federal side.

Putting the federal EI program off to the side for the moment, I would say this: On this motion, a child means a child, a stepchild, a foster child. A stepchild or a foster child are children, right? They don't need to be identified any further. A stepchild is your child, and putting aside that employment insurance law, just looking at the law as it stands—and I would question on the government motion about the under 18 years of age. I would think that everybody around the committee and through the debate of this bill in the House—that this ought to be available to parents or loved ones, regardless of the age

of the person who is seriously ill, whether that person was 19 or 16 or 60 or 80.

For those reasons, if we're going to try to blend an unpaid leave bill in with a paid employment insurance program, I don't think we're going to get—we're going to create some problems, and this will be one of them.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much. Ms. Damerla?

Ms. Dipika Damerla: I did want to clarify that this particular leave is covered by the federal EI, right? When your child is sick, it is covered, so this won't be unpaid. So we want to make sure—

Mr. Randy Hillier: That's right, so we don't need this bill for that.

Ms. Dipika Damerla: My guess is—and we can check, but I did want to make the point that this is not going to be unpaid leave. This is going to be paid leave, and so it might be that we need to ensure that the definitions dovetail.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much. I think that there is some ambiguity, it seems, around the issue of guardianship, and you would like to have that defined—Mr. Jackson, is that correct?—as to whether or not you want to make an amendment to this motion. Do I need the amendment on the floor or should we take a five-minute recess, in the interests of the committee, just to find out?

Ms. Dipika Damerla: I think we need a five—

The Vice-Chair (Mrs. Donna H. Cansfield): I'm going to suggest a five-minute recess.

The committee recessed from 1704 to 1709.

The Vice-Chair (Mrs. Donna H. Cansfield): This meeting is now called back to order. Mr. Jackson?

Mr. Rod Jackson: Thank you. I'd like to propose a friendly amendment, if I could.

Interjection.

Mr. Rod Jackson: I guess we're going to—do we have clarification?

Ms. Julia Hood: If it's friendly, it's friendly. You don't have to have another paper one.

Mr. Rod Jackson: Okay. I'd like to add the words—shall I just read out the whole—

Interjection.

Mr. Rod Jackson: Okay.

So “child” means a child, step-child or foster child or a child who is under legal guardianship who is under 18 years of age;”

The Vice-Chair (Mrs. Donna H. Cansfield): Any comments to the friendly amendment to the motion?

Ms. Dipika Damerla: We spoke to MPP Hillier, but I just wanted to explain that with this particular leave, the critically ill child leave, you are entitled to apply for EI, so by changing the definition, you're going to create two classes, potentially: some people who will be able to apply for that EI, and the guardianship bit will not be captured. So just for simplicity's sake, because we want to ensure that everybody can access that pot of money, it is perhaps prudent to keep the definition consistent with the federal definition so that Ontarians can apply for the

EI when they have a critically ill child. That's the reason the definition is being dovetailed.

The earlier point that MPP Hillier made, that this is a potential EI case so we don't need to dovetail, is not true because currently, once this act is passed, they will be able to access the EI. It would be the same case, in the case of the child who dies—both of them.

I just wanted to flag that, so if you were to add the guardianship bit, that part of people would not be able to access the EI. Our recommendation would be to keep the definition as is, to keep it simple and clean.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you. Ms. Gélinas?

M^{me} France Gélinas: There is a large amount of workers who will never be allowed to collect employment insurance for 100 different reasons: all of the farm workers, all of the self-employed. Okay, so the idea is that we are drafting legislation for the people of Ontario. If it can be helpful to somebody who has a child under guardianship, I see no harm.

Let the federal government decide who is available or not. The federal government is not going to look to our bill to decide if they grant employment insurance or not. They have their own process that the person will have to apply through, that has nothing to do with our bill.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much. Any further comments? Mr. Fraser.

Mr. John Fraser: I agree with the member across that it's about allowing this to happen. It's obviously not a money program. I also agree with putting guardianship in. I think it's a reasonable thing to do.

I'll be supporting it.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much. Any further comments or questions?

Shall the amendment pass? All those in favour of the amendment?

Ms. Peggy Sattler: Including the new language?

The Vice-Chair (Mrs. Donna H. Cansfield): Do you want the amendment in writing or do you just—

M^{me} France Gélinas: No, no. Are we voting to include “child under guardianship”?

The Vice-Chair (Mrs. Donna H. Cansfield): Yes, we are. Mr. Jackson, would you like to reread your friendly amendment?

Mr. Rod Jackson: Certainly.

“‘child’” means a child, step-child or foster child or any child who is under legal guardianship who is under 18 years of age;”

The Vice-Chair (Mrs. Donna H. Cansfield): So we're going to do a more friendly amendment?

Mr. Rod Jackson: Yes, it's just some proper word-smithing.

Interjection.

Mr. Rod Jackson: Okay.

“‘child’” means a child, step-child, foster child or a child who is under legal guardianship and who is under 18 years of age;”

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much. Any further comments to the amendment?

Seeing none, all those in favour of the amendment? All those opposed?

All those in favour of the motion, as amended? All those opposed?

Then it carries, as amended.

The next motion is a government motion. Mr. Dhillon.

Mr. Vic Dhillon: I move that the definition of “critically ill child” in subsection 49.4(1) of the act, as set out in section 3 of the bill, be struck out and the following substituted:

“‘critically ill child’ means a child whose baseline state of health has significantly changed and whose life is at risk as a result of an illness or injury;”

The Vice-Chair (Mrs. Donna H. Cansfield): Any further comment, Mr. Dhillon?

Mr. Vic Dhillon: No, I think that's pretty straightforward.

The Vice-Chair (Mrs. Donna H. Cansfield): Any other comments or questions?

Seeing none, all those in favour of the motion? All those opposed? The motion carries.

Number 9 is a motion from the NDP. Ms. Sattler.

Ms. Peggy Sattler: I move that the definition of “qualified health practitioner” in subsection 49.4(1) of the act, as set out in section 3 of the bill, be struck out and the following substituted:

“‘qualified health practitioner’ means,

“(a) a person who is qualified to practise as a physician, a registered nurse or a psychologist under the laws of the jurisdiction in which care or treatment is provided to the individual described in subsection (4), or

“(b) in the prescribed circumstances, a member of a prescribed class of health practitioners;”

The Vice-Chair (Mrs. Donna H. Cansfield): Any additional comments?

Ms. Peggy Sattler: It makes it consistent with the amendment that we passed earlier.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much. Any further comments or questions?

Seeing none, I'll call the question. All those in favour of the motion? All those opposed? The motion carries.

Government motion number 10. Mr. Dhillon.

Mr. Vic Dhillon: I move that subsections 49.4(2) and (3) of the act, as set out in section 3 of the bill, be struck out.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you. Any further comments, Mr. Dhillon?

Mr. Vic Dhillon: Just a second, Chair.

Subsections 49.4(2) and (3) had been drafted in order to capture injuries in addition to illness in the definition of “critically ill child” in case the definition in regulations made under the EI act does not capture injuries. The definition of “critically ill child” in the regulations that have now been made under the federal EI act does in fact capture stepchildren and foster children, as well as

injuries. Subsections 49.4(2) and (3) are, therefore, no longer needed.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much, Mr. Dhillon. Any further comments or questions?

Seeing none, all those in favour of the motion? All those opposed? The motion carries.

Motion number 11 is an NDP motion. Ms. Sattler.

Ms. Peggy Sattler: I move that section 49.4 of the act, as set out in section 3 of the bill, be amended by adding the following subsection:

“No fee for certificate

“(4.1) A qualified health practitioner shall not charge a fee for a certificate issued for the purposes of this section.”

The Vice-Chair (Mrs. Donna H. Cansfield): Any further comments or questions? Ms. Gélinas?

M^{me} France Gélinas: The practice becomes even more egregious when you’re talking with a child that has no means of paying, which means you’re hitting the parents in the pocket at a time when the children are sick. The whole thing is sick, that you would have to pay for a note that says so, including my voice.

The Vice-Chair (Mrs. Donna H. Cansfield): Any further comments or questions? Mr. Hillier?

Mr. Randy Hillier: Yes. Of course, to keep the bill consistent, a similar motion earlier in the bill was lost. It was not supported, and to keep the bill consistent, we should not support it again.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much. All those in favour of the motion?

M^{me} France Gélinas: Recorded vote.

The Vice-Chair (Mrs. Donna H. Cansfield): A recorded vote, please.

Ayes

Gélinas, Sattler.

Nays

Damerla, Dhillon, Fraser, Harris, Jackson, Scott.

The Vice-Chair (Mrs. Donna H. Cansfield): The motion is lost.

Government motion number 12. Mr. Dhillon.

1720

Mr. Vic Dhillon: Yes. Thank you, Chair. I move that—

Interjection.

Mr. Vic Dhillon: We withdraw that.

The Vice-Chair (Mrs. Donna H. Cansfield): Government motion number 12 is withdrawn.

Motion number 13: NDP motion. Ms. Sattler.

Ms. Peggy Sattler: I move that subsection 49.4(8) of the act, as set out in section 3 of the bill, be struck out.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much. Are there any further comments or questions on the motion? Seeing none, all those in—Mr. Hillier?

Mr. Randy Hillier: I would just say that we’ll be supporting this motion. This will make it consistent with an earlier amendment in the bill where we struck out that reference to “entire week.” To keep the bill consistent, this amendment should be adopted.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much. Any further comments or questions? Seeing none, all those in favour of the motion? All those opposed? The motion carries.

Shall section 3, as amended, carry? All those in favour? Thank you very much. All those opposed? Then, section 3, as amended, carries.

The next motion is a government motion. Mr. Dhillon.

Mr. Vic Dhillon: I move that the French version of subsection 52.1(1) of the act, as set out in section 4 of the bill, be amended by striking out “périodes d’une semaine complète” in the portion before clause (a) and substituting “périodes de semaines complètes”.

The Vice-Chair (Mrs. Donna H. Cansfield): Any further comments, Mr. Dhillon?

Mr. Vic Dhillon: I believe it’s just correcting a translation error, Chair.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much. Ms. Gélinas?

M^{me} France Gélinas: We may need a recess on this because we have taken out every part of the bill that makes reference to taking leave in entire weeks. So it’s kind of weird that we are now explaining what an entire week is going to be when it won’t apply anymore.

Can I have legal advice on that?

Ms. Julia Hood: You’re right that the provisions in the bill that provided for entire week periods have been taken out, but there are existing provisions in the act that already speak to entire week periods.

M^{me} France Gélinas: I see.

The Vice-Chair (Mrs. Donna H. Cansfield): Any further comments or questions? Seeing none, all those in favour of the motion? All those opposed? The motion carries.

Government motion 15, Mr. Dhillon.

Mr. Vic Dhillon: We’re going to pull that motion.

The Vice-Chair (Mrs. Donna H. Cansfield): You’re withdrawing—

Mr. Vic Dhillon: Withdraw, sorry.

The Vice-Chair (Mrs. Donna H. Cansfield): Shall section 4, as amended, carry? All those in favour? All those opposed? Section 4 carries.

There are no amendments to sections 5, 6 and 7. Could we take all sections—shall sections 5, 6 and 7 carry? All those in favour? All those opposed? The sections shall carry.

Shall the title of the bill carry? All those in favour? All those opposed? Carried.

Shall Bill 21, as amended, carry? All those in favour? All those opposed? Carried.

Shall I report the bill, as amended, to the House? All those in favour? All those opposed? It’s carried.

Excuse me. We have a motion on the floor. Mr. Jackson.

Mr. Rod Jackson: I have a motion here. I move that the standing order 111(a) review related to the 2015 Pan/Parapan American Games and the Pan/Parapan American Games Secretariat commence on the next regular scheduled meeting date following the day in which this motion is passed, and will continue indefinitely, with the exception of meetings already agreed to by the committee, and that the committee will proceed in the following manner:

(1) Each caucus is allotted one witness per week; that each witness is allotted a total of 95 minutes that includes a five-minute opening statement, a series of 20-minute rotations of questions and statements by each party, and concluding with a 10-minute rotation of questioning and statements by each party. Questioning will begin with the caucus that called the witness to committee and will continue with the party located on the left-hand side of the party whose questioning period has just completed.

(2) That the rotation for the selection of witnesses will proceed in the following order:

- (a) the official opposition;
- (b) the third party;
- (c) the government.

(3) Witnesses will be invited to appear before the committee by the Clerk, with reference to the witness lists provided by each caucus. These witness lists must be delivered to the Clerk in electronic or written format no later than five business days before the caucus's assigned witness slot.

The Vice-Chair (Mrs. Donna H. Cansfield): Ms. Damerla?

Ms. Dipika Damerla: Chair, could we request a 20-minute recess, please?

The Vice-Chair (Mrs. Donna H. Cansfield): All those in agreement to a 20-minute recess?

Ms. Laurie Scott: How about 10?

M^{me} France Gélinas: Five?

The Vice-Chair (Mrs. Donna H. Cansfield): I don't hear agreement for 20.

Ms. Dipika Damerla: This is the first time we are seeing the details of this. I would appreciate 20 minutes.

The Vice-Chair (Mrs. Donna H. Cansfield): Ms. Scott?

Ms. Laurie Scott: We brought forward a similar motion putting this before the committee before, so this is just basically details of what we'd like to do in the committee. Is five minutes—

Ms. Dipika Damerla: How about we come to a compromise and do 15?

Ms. Laurie Scott: How about 10?

Ms. Dipika Damerla: Okay.

The Vice-Chair (Mrs. Donna H. Cansfield): All those in agreement to 10 minutes? Is there any agreement to 15? Seeing none, is there agreement to 10? Ten minutes, ladies and gentlemen.

The committee recessed from 1728 to 1738.

The Vice-Chair (Mrs. Donna H. Cansfield): We've reconvened the meeting. We have a motion on the floor. Ms. Damerla.

Ms. Dipika Damerla: Chair, typically these things are discussed in subcommittee properly, but we didn't get a chance to discuss—we've gone through it now. Thank you for the time. There are some changes that we'd like to make. In order for us to introduce those amendments, we need time to type them up and make sure that we have our ducks in order. There's probably quite a bit of it that we would support routinely, so it's not that, but we do have some proposals that we think will strengthen this, as well as—

Interruption.

Ms. Dipika Damerla: Oh.

The Vice-Chair (Mrs. Donna H. Cansfield): How long is the vote? Could we check?

Interjection: What's the number?

The Vice-Chair (Mrs. Donna H. Cansfield): There's no number. We're just going to check. Give us a moment.

It's a 10-minute bell? Let's check.

Ms. Dipika Damerla: Vote now. Sorry, it says, "Vote now." I just got an email.

The Vice-Chair (Mrs. Donna H. Cansfield): It's a 10-minute bell.

Interjection.

The Vice-Chair (Mrs. Donna H. Cansfield): Well, it's up to the committee. Would you like to go to the House or would you care—

Interjection.

The Vice-Chair (Mrs. Donna H. Cansfield): Vote now? We'll suspend the meeting and come back. We'll go to the House for a vote. I'm going to suspend the meeting. We'll go to the House for the vote.

The committee recessed from 1739 to 1755.

The Vice-Chair (Mrs. Donna H. Cansfield): I'm going to call the meeting back to order. We have a motion on the floor. This meeting will adjourn in five minutes. Are there any comments? Yes, Mr. Harris.

Mr. Michael Harris: In light of the fact that we have about five minutes left and the fact that we also passed a motion commencing the study on the Pan/Parapan Am Games just at the last meeting and that this is a bit of a housekeeping issue, I ask that we call the question.

The Vice-Chair (Mrs. Donna H. Cansfield): Okay. We'll call the question. Ms. Damerla?

Ms. Dipika Damerla: Chair, actually, I was in the middle of speaking when we last adjourned, so I wasn't sure if I'd get a chance to complete what I was saying.

The Vice-Chair (Mrs. Donna H. Cansfield): We recessed. You weren't here when I convened the meeting back together again. Mr. Harris spoke and now it's your turn.

Ms. Dipika Damerla: Thank you. So I can continue to speak, right?

As I was saying, there are definitely a lot of—

The Vice-Chair (Mrs. Donna H. Cansfield): To the fact that he's called the question.

Ms. Dipika Damerla: That's what I'm going to do. Our position is that we want to introduce some amendments. We need the time to introduce these amendments,

so what I'd like to do is adjourn and defer the vote until next meeting. I'm seeking that we defer the vote on this until our next meeting.

The Vice-Chair (Mrs. Donna H. Cansfield): You're asking to defer the vote until the next meeting?

Ms. Dipika Damerla: Because we want to introduce amendments.

The Vice-Chair (Mrs. Donna H. Cansfield): Are you asking for a recess or just a straight deferral?

Ms. Dipika Damerla: Either way, we do want to introduce amendments. I'm happy to take advice on what is the best way.

Mr. Michael Harris: We did call the question—

The Vice-Chair (Mrs. Donna H. Cansfield): I just asked the same question. It's not the same in committee on a question. There is some latitude around the opportunity for a discussion. That's why I had asked the Clerk that question, because I made the same assumption, Mr. Harris.

If you're asking for a deferral with the condition of amendments, then that becomes a debatable deferral or a debatable motion. We are at the point where we are in a debatable motion because you have asked for a deferral or a deferral motion based on the fact that you're going to put in amendments. Under the standing orders, you debate that amended deferral.

Mr. Vic Dhillon: Chair?

The Vice-Chair (Mrs. Donna H. Cansfield): Yes, Mr. Dhillon.

Mr. Vic Dhillon: If I'm not mistaken, normally this type of stuff is handled in the subcommittee. To have this sprung up on us is highly unfair. It would only be fair if we were given some time to consider our options.

The Vice-Chair (Mrs. Donna H. Cansfield): We do have a motion to defer on the floor, Mr. Dhillon, and that's what we're debating.

Mr. Vic Dhillon: Okay.

The Vice-Chair (Mrs. Donna H. Cansfield): The committee will adjourn in about two minutes, but right now we're debating the motion to defer.

M^{me} France Gélinas: I would like to call the question on the motion to defer.

The Vice-Chair (Mrs. Donna H. Cansfield): All those in favour?

Ms. Dipika Damerla: Chair, just one second. I need to understand what's going on.

The Vice-Chair (Mrs. Donna H. Cansfield): The question has been called—

Interjection.

The Vice-Chair (Mrs. Donna H. Cansfield): Excuse me. The question has been called by Ms. Gélinas to vote on the deferral motion that you've put in place to defer because you want to put forward amendments. Ms. Gélinas has put forward the question to defer the motion. I had asked for further debate; that's the further debate, so that motion to defer the deferral is on the floor.

Ms. Dipika Damerla: We'd like to ask for a recess before the vote, if you're going to call a vote.

The Vice-Chair (Mrs. Donna H. Cansfield): Okay. Then I'm going to put the question: Should we postpone?

Ms. Dipika Damerla: All we're asking for—I don't understand the—

The Vice-Chair (Mrs. Donna H. Cansfield): I'm not asking for debate, actually. What I'm asking for is: Is everyone in favour of postponement of the deferral motion? There's no—

Mr. Vic Dhillon: Chair, it's 6 o'clock. We're only allowed to sit until 6.

The Vice-Chair (Mrs. Donna H. Cansfield): There's no agreement on the deferral motion being deferred, but now it is 6 o'clock. Just to let you know, this comes as the first item on the agenda for the next meeting, which is Monday the 18th. This will be the first item.

Ms. Laurie Scott: So we're calling a committee meeting for Monday the 18th and this is going to be the first—

Interjection.

The Vice-Chair (Mrs. Donna H. Cansfield): Not during constituency week. It's the week following constituency week. It will be Monday the 18th for the regular standing committee. This will be the first item on the agenda. The motion to defer lost.

Ms. Dipika Damerla: How does that work? The motion to defer is lost, but—

The Vice-Chair (Mrs. Donna H. Cansfield): You now have a week with which to do—

Ms. Dipika Damerla: Yes, but typically, if the motion to defer is lost—

The Vice-Chair (Mrs. Donna H. Cansfield): The question was called and I asked who was in favour of the motion to defer. I had no support, so you lost the motion to defer. Now I can adjourn the meeting because it's 6 o'clock and now you have until the 18th.

Ms. Dipika Damerla: When we come back—

The Vice-Chair (Mrs. Donna H. Cansfield): We are adjourned.

The committee adjourned at 1802.

CONTENTS

Wednesday 6 November 2013

Employment Standards Amendment Act (Leaves to Help Families), 2013, Bill 21, Mr. Naqvi / Loi de 2013 modifiant la Loi sur les normes d'emploi (congrés pour aider les familles), projet de loi 21, M. Naqvi	G-343
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G-23

G-23

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Monday 18 November 2013

Journal des débats (Hansard)

Lundi 18 novembre 2013

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Monday 18 November 2013

Lundi 18 novembre 2013

The committee met at 1403 in committee room 2.

COMMITTEE BUSINESS

The Vice-Chair (Mrs. Donna H. Cansfield): This meeting is a go. We have a PC motion on the agenda which we had under discussion. Ms. Damerla?

Ms. Dipika Damerla: Thank you, Chair. I have a couple of amendments that I'd like to introduce now, amendments to the original motion that MPP Rod Jackson had introduced.

The Vice-Chair (Mrs. Donna H. Cansfield): Okay.

Ms. Dipika Damerla: I'm going to introduce three of them together, just in the interests of time and so that it gives the whole picture of what we are trying to do, so it's easy to follow.

The Vice-Chair (Mrs. Donna H. Cansfield): Do you have copies?

Ms. Dipika Damerla: Yes.

The Vice-Chair (Mrs. Donna H. Cansfield): As they're being distributed by the Clerk, we could start our conversation on three new amendments that have been introduced—amendments to the amendment—by Ms. Damerla.

Ms. Damerla.

Ms. Dipika Damerla: Thank you, Chair.

The Vice-Chair (Mrs. Donna H. Cansfield): They're not numbered. Which one would you like to start with?

Ms. Dipika Damerla: I'd like to start with the one that starts, "The first paragraph of the motion...." That's number 1.

The Vice-Chair (Mrs. Donna H. Cansfield): The one that says, "I move that the first paragraph" is titled number 1. Number 2 is?

Ms. Dipika Damerla: "That subsection (1) be amended to read...."

The Vice-Chair (Mrs. Donna H. Cansfield): Okay, and then 3.

Ms. Dipika Damerla: Yes.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you. We'll start with 1.

Ms. Dipika Damerla: Can I just read them in succession?

The Vice-Chair (Mrs. Donna H. Cansfield): Yes, please.

Ms. Dipika Damerla: I move that the first paragraph of the motion be amended such that the wording "com-

mence on the next regular scheduled meeting date following the day in which this motion is passed, and will continue indefinitely, with the exception of meetings already agreed to by the committee" be removed and replaced with the following: "commence on Monday, December 2, 2013, and continue on each subsequent regularly scheduled Monday meeting date, until such time as the review is complete."

Motion number 2: that subsection (1) be amended to read: "Each caucus is allotted one witness per week, and that each witness is allotted a total of 65 minutes; that includes a five-minute opening statement, a series of 15-minute rotations of questions and statements by each party, concluding with a five-minute rotation of questions and statements by each party."

The last amendment: I move that the Clerk, in consultation with the Chair, be authorized to arrange the following with regard to Bill 105, Supporting Small Businesses Act, 2013:

(1) One day of public hearings during the committee's regularly scheduled meeting time on Wednesday, November 20, 2013;

(2) One day of clause-by-clause consideration during the committee's regularly scheduled meeting time on Wednesday, December 4, 2013;

(3) Advertisement on the Ontario parliamentary channel, the committee's website and Canada NewsWire;

(4) Witness presentations scheduled as the requests are received, on a first-come, first-served basis;

(5) Witness presentations scheduled in 20-minute time slots, with presenters provided up to five minutes for their presentation, followed by up to 15 minutes for questions from committee members, divided equally between caucuses;

(6) A deadline for written submissions be set for 6 p.m., Wednesday, November 27, 2013; and

(7) A deadline for filing amendments with the Clerk of the Committee be set for 12 noon on Friday, November 29, 2013.

To summarize, Chair, the intent of this set of three amendments is quite simple. It's to accommodate the request of both the NDP and the Conservatives to have hearings on Pan Am, but at the same time get some legislation moving. So it's a compromise.

What we're asking is that every Monday of the week that this committee sits, we can do Pan Am, and every Wednesday we can do other business that this committee

is looking at concurrently, which would include Bill 105 and auto insurance. So that's what we are requesting.

The reason we keep emphasizing—and that's what number 1 and number 2 and what number 3 essentially does: In order to fit everything in, we needed to just change a little bit. Instead of doing committee hearings on Mondays and Wednesdays, if you're going to do committee hearings only on Wednesday for Bill 105, we just had to change a little bit of some of the details around the public hearings.

The Vice-Chair (Mrs. Donna H. Cansfield): Ms. Damerla, thank you for that overview. Now what we have to do is debate the amendments one by one.

So we go on the first amendment. Are there any speakers to the first amendment? Ms. Damerla.

Ms. Dipika Damerla: Thank you, Chair. So as I mentioned in my slight—

Interjection.

Ms. Dipika Damerla: Sorry. Laurie, did you want to say something?

Ms. Laurie Scott: I think we just need a second on that question. Is that okay?

The Vice-Chair (Mrs. Donna H. Cansfield): Yes, of course, if you'd like a moment.

Ms. Peggy Sattler: Point of order.

The Vice-Chair (Mrs. Donna H. Cansfield): Yes?

Ms. Peggy Sattler: Can you just clarify how we're going to proceed? Are we going to deal with each amendment separately—

The Vice-Chair (Mrs. Donna H. Cansfield): That's correct.

Ms. Peggy Sattler: —and vote on each amendment separately—

The Vice-Chair (Mrs. Donna H. Cansfield): Yes.

Ms. Peggy Sattler: —but they've been presented all together.

The Vice-Chair (Mrs. Donna H. Cansfield): We allowed them to be presented and all three to be read into the record, but we will be discussing them one by one.

Ms. Peggy Sattler: Okay.

The Vice-Chair (Mrs. Donna H. Cansfield): So the first is the first amendment, which we have titled number 1.

Would you like a five-minute recess?

Ms. Laurie Scott: Sure.

The Vice-Chair (Mrs. Donna H. Cansfield): A five-minute recess.

The committee recessed from 1409 to 1414.

The Vice-Chair (Mrs. Donna H. Cansfield): The committee is called to order. We are on the amendment to the main motion, the first. Are there any speakers to this amendment? Ms. Damerla?

Ms. Dipika Damerla: Chair, I just wanted to elaborate a bit on what we are trying to accomplish. I think it's a little self-explanatory, to some extent. What we are trying to say is, let's divide up the committee to do two things concurrently: One is to do Pan Am for as long as we want to do Pan Am, and we'd do that every Monday; and that we do Bill 105 or whatever other committee

business every Wednesday. All we're saying is, instead of using up both days of the week for Pan Am indefinitely, how about we pick one day for Pan Am and one day a week for other business? It's as simple as that. The other thing that we're asking—well, that's what amendment number 1 asks for.

The Vice-Chair (Mrs. Donna H. Cansfield): We're just dealing with 1?

Ms. Dipika Damerla: Yes.

The Vice-Chair (Mrs. Donna H. Cansfield): Any further debate?

Ms. Sarah Campbell: Well, our position, quite simply, is just that the NDP recognizes that Bill 105 is an important initiative. It's an NDP initiative. It's something that we have supported, but we have come to an agreement at subcommittee whereby all three parties were able to move forward their priorities. We came to somewhat of an agreement, and I believe we should stick to that agreement. We should deal with the business that's already before committee before we start to introduce other things.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much. Is there any further debate?

Ms. Dipika Damerla: Just to clarify: My understanding is that at the subcommittee meeting, this amendment that was introduced by MPP Rod Jackson wasn't on the table. So are you suggesting that we just go back to what was discussed at that last subcommittee meeting and then this amendment by MPP Jackson is off the table? Is that what you're suggesting?

Ms. Sarah Campbell: No, no, that's not what I'm suggesting. I'm just suggesting that I think we may have come to sort of an informal agreement; not all of it was formalized at the subcommittee. We came to an agreement whereby the Liberals were able to put forward their priority, as was the NDP. The Progressive Conservatives did as well, and that's something that we're debating right now. So I believe that we should keep it fair, just a one-one-one kind of situation. We'll get through this business and then once we motor through that, we're welcome to discuss any further business.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much, Ms. Campbell. Is there any further debate on item number 1? Ms. Damerla?

Ms. Dipika Damerla: Chair, I'm just going to suggest two things. One is a little bit of clarification. My understanding is that that particular issue, each party having one priority put forward, was not discussed at the last subcommittee meeting. That is our understanding, but we're open to discussing that at a subcommittee. If that were the case, then I'm curious to see how it would work, because we're saying that Bill 105 is our priority. I'm going to guess that auto insurance is—

Ms. Sarah Campbell: No.

Ms. Dipika Damerla: No? Okay. All right. I don't know if this is the correct forum to be debating those priorities. I can see where you're going with that, but I just need clarification on what the priorities are.

Ms. Sarah Campbell: Chair, if I could? May I?

The Vice-Chair (Mrs. Donna H. Cansfield): Ms. Campbell, in fact, if you go to the report of the subcommittee on Wednesday, October 30, it actually is on Bill 21 and it does identify those aspects.

Ms. Dipika Damerla: Okay. Bill 21 would be the priority for the NDP? No? All parties, okay.

Ms. Sarah Campbell: No, no. My interpretation of the subcommittee is that the Liberals put forward Bill 21 as their priority, the NDP put forward an auto insurance review—the continuation of that—as our priority, and the Progressive Conservatives, I believe, are waiting for our next actual meeting to put forward their priority. So the point I'm trying to make is that the Liberals have already prioritized Bill 21, and so to now prioritize Bill 105—I'm just saying that we should deal with Bill 21, we should deal with auto insurance, and then we should listen to what the Conservatives have to say in terms of their priorities and we should move forward accordingly.

The Vice-Chair (Mrs. Donna H. Cansfield): So if I may just read this into the record so that there is an understanding. It says, at the end of the discussion:

"Your subcommittee met further to consider the method of proceeding on its standing order 111 study relating to the auto insurance industry and recommends the following:

"(11) That the committee meet on Monday, November 25, and Wednesday, November 27, 2013, for the purpose of continuing its study."

Ms. Damerla?

Ms. Dipika Damerla: Thank you, Chair. The point is that Bill 21 is done. It's off the table. I just need a few minutes to explain why we need to get Bill 105 done before Christmas, before the House rises. I'm just going to re-explain that, because if we don't, February 15 is going to be the next time small businesses in Ontario are going to pay their health payroll taxes. If we don't do this in time, by January 1, on February 15 they won't get that break. It's as simple as that.

So the question we have to ask is, is that a priority for us here in Ontario or not, to ensure that beginning next year, our small businesses are between \$450,000 and \$500,000? We're raising that limit from \$450,000 to \$500,000. Do we want to make sure that, in a timely fashion, they get that break on the employer health tax? And if all of us are agreed on that, that's the reason we're putting that forward as a priority.

1420

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you, Ms. Campbell?

Ms. Sarah Campbell: Okay. With all due respect, I'd like to point out two points. First of all, according to this timetable, we would still have time to deal with Bill 105. The other thing is, again, with respect—

Ms. Dipika Damerla: Sorry. Which timetable?

Ms. Sarah Campbell: Well, just according to what we had discussed with subcommittee.

Ms. Dipika Damerla: But Bill 105 wasn't on the agenda of that.

Ms. Sarah Campbell: That's right. But in terms of the business that's before committee right now—

Ms. Dipika Damerla: Sorry. There's a little bit of confusion, because right now what's in front of the committee is all to the business of including Pan Am, which would take up so much time that we wouldn't get to Bill 105, and that's what we're trying to get to. That's what we're trying to solve. That's the issue.

They have put forward an amendment that says they would like to introduce another piece of new business in front of the committee, which is the Pan Am review. All we're saying is, instead of having every day of the week taken up by Pan Am review, can we just do one day a week Pan Am review and one day a week other business as we all decide? Our preference would be Bill 105.

The Vice-Chair (Mrs. Donna H. Cansfield): Further debate?

Ms. Laurie Scott: Some of it is just clarifications. What we've said before, I believe, in the last general meeting, not subcommittee meeting, is that you could send Bill 105 to another committee. We're not opposed to that.

We had proposed a motion, which you all have from the last committee, that was passed that—

Ms. Dipika Damerla: Sorry. It wasn't passed. The motion wasn't passed.

Ms. Laurie Scott: Well, what did we vote on?

Ms. Dipika Damerla: We didn't vote on this motion.

Interjections.

The Vice-Chair (Mrs. Donna H. Cansfield): It was on the floor. The motion is on the floor.

Ms. Laurie Scott: The motion is on the floor. What was the vote that took place? That's my clarification order. Nothing? We took a vote.

Interjection.

Ms. Laurie Scott: Okay. So the motion was to do the review of the Pan Am Games. You're bringing in—

Interjection.

Ms. Laurie Scott: Right. Then we're in here talking about how to make the motion that's before us happen. Okay. And you've made these three amendments to the motion.

Ms. Dipika Damerla: Yes, essentially saying, instead of doing every day of the week, one day a week is Pan Am; the other days are open for other business.

Ms. Laurie Scott: Right. Okay. So you introduced all three. We've had kind of a general discussion. And then we need to vote one by one—

The Vice-Chair (Mrs. Donna H. Cansfield): We're just on 1.

Ms. Laurie Scott: Okay. One by one. So we're just on the first one at the moment.

The Vice-Chair (Mrs. Donna H. Cansfield): That's correct. We're just on the first one.

Ms. Laurie Scott: Okay. I don't know if we have any more to add to 1 before we vote, but I just want to say, in respect to Bill 105, that we would like it moved—and it could be moved, with unanimous consent—to another committee for discussion, and that our priority would still

be the motion that's before us to investigate the Pan Am Games.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you, Ms. Scott. Mr. Fraser?

Mr. John Fraser: I just want to say that Bill 105 is, as you say, a priority for your side. It's a priority over here. I think what we have here is a very simple and clear way of doing it. I don't think it stops any other priorities that we had as a committee, which was insurance and the new Pan Am motion that's before us.

The only thing that's got a clock on it right now is Bill 105. That's the only thing that needs to get passed right now. We're looking at two days: one for hearing and one for clause-by-clause. I think it's reasonable. I think it's something that we can get done, and we can do it here, and we can continue on with the rest of the business of the committee.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you, Ms. Damerla?

Ms. Dipika Damerla: I also wanted to point out, just from a procedural point of view, as per your own motion, you would need five days to schedule a witness for your Pan Am review, so what would we do all day Wednesday? You won't have any witnesses for Wednesday, so why don't we just get on with other business?

The Vice-Chair (Mrs. Donna H. Cansfield): Is there any further debate on item 1, the amendment? Any further debate on item 1? Ms. Campbell?

Ms. Sarah Campbell: Well, I think it needs to be said: I think this is a case of the Liberals playing a little bit cute. We were given an opportunity to raise our caucus priorities for this committee. If this is such a priority for the Liberal Party, why didn't they prioritize Bill 105, and why are they now waiting until after we've already discussed Bill 21, which was their priority? So I can appreciate the urgency.

Again, it needs to be stated that this is a priority for the NDP, but I think there also needs to be an element of fairness. I think that there is still enough time to do all of our priorities, including this one. But I think that we should continue on in a way—again, I want to stress fairness—in a way that is fair to the Progressive Conservatives as well.

The Chair (Mrs. Donna H. Cansfield): I'm ready to allow a little leeway here, but we're supposed to be speaking to the amendment to the main motion, which is number 1. Mr. Fraser.

Mr. John Fraser: I just want to remind you that we've debated this bill for 14 and a half hours. That's 14 and a half hours for a very simple bill that speaks to something that you supported in the budget. I think if we take a look at the schedule right here, we have some room. This Wednesday, we're not going to be calling any witnesses to committee because it's not going to fit into the timeline that we've set out in the motion. We've got a blank day here at the end, so there's lots of time here to deal with all of the priorities of the committee. I think that we should support this motion.

The Chair (Mrs. Donna H. Cansfield): Ms. Damerla.

Ms. Dipika Damerla: I just wanted to respond to the NDP member, Sarah Campbell. I agree with you: We need to work together, and each of us can push forward our priorities. Bill 21 is done. That doesn't mean the government doesn't continue to have priorities. We have Wednesday that we can't move forward with the Conservative proposal, because by their own motion, they cannot have a witness on Wednesday. So I'm just trying to figure out a way that we can all work together and work on committee. Otherwise, Wednesday will be just lost.

I take your point that Bill 21 is done, but all we're trying to say here is that the way it's worded now, only one party's priority will take up all of the time indefinitely. You, as the NDP, will not be able to put forward any of your priorities either. Once this motion passes, that's all we're going to do, because if you read the motion carefully, it says that indefinitely we're going to do a review of the Pan Am Games. Is that what you want? If you really want to put forward your priorities, then I urge you to work with us.

The Chair (Mrs. Donna H. Cansfield): Mr. Fraser.

Mr. John Fraser: I just wanted to add one more thing. Out of the three things that are in front of us right now, this is the only one that has got a time stamp on it, and it's the only one that's actually going to put money in small businesses' pockets. I just want to remind the committee of that. I think it's very important and I think that's why we should support that motion.

The Chair (Mrs. Donna H. Cansfield): Any further debate on the amendment to the main motion, amendment number 1? Any further debate? Ms. Damerla.

Ms. Peggy Sattler: Can we have a recess?

The Chair (Mrs. Donna H. Cansfield): Yes, you may. Would you like five minutes?

Ms. Peggy Sattler: Five minutes, yes.

The committee recessed from 1428 to 1435.

The Chair (Mr. Grant Crack): I call the meeting back to order. Okay, we're going to continue with amendment number 1. Is there any further discussion? Ms. Sattler?

Ms. Peggy Sattler: Yes. I just have a question, through you, Chair, to the Clerk, I think. I think we are all agreed that there are a number of important priorities for all three parties: auto insurance is a priority, the Pan Am Games are a priority and Bill 105, supporting small businesses, is also a priority. I am also concerned about the wording of the PC motion related to "continue indefinitely." I'd like some clarification from the Clerk as to whether supporting this motion would tie up the committee for the next four weeks or longer by the wording "continue indefinitely." Can you clarify what it is we would be agreeing to by supporting those words, in particular "continue indefinitely"?

The Clerk of the Committee (Ms. Sylwia Przechycki): A committee cannot bind itself. The committee, if it were to pass this motion, could come back in a day

or two, or at the next meeting, and further amend its agenda to include other items into it.

Ms. Peggy Sattler: Okay, so it's not binding? If this motion passes, which would bring up the Pan Am Games issue at the next meeting, there would still be an opportunity to amend, to put some limits on the length of time that the committee is going to be dealing with this issue.

The Clerk of the Committee (Ms. Sylwia Przewdziecki): Yes, that's a decision that the committee can make.

Ms. Peggy Sattler: Okay. Thank you.

The Chair (Mr. Grant Crack): Any further discussion? Ms. Damerla.

Ms. Dipika Damerla: I just wanted to get some feedback from both parties. The way all of this stands, if the PC motion passes, essentially we have a hole on Wednesday. I take the Clerk's point that, at any time, we can amend it to make sure it's not indefinite, but right now, that's the way it is: indefinite. And I'm going to guess that to change it, it would need a majority vote. So we'd be back to that same discussion.

I'm just saying, why don't we have that discussion right now as to how long we should give each party their priority? Because right now, the one priority of the PC Party is taking all of the time, and the Liberal priority and the NDP priority are not in the picture. Why don't we just discuss that right now, to talk about how we can do an equitable allocation of time, as opposed to another day? It's just a suggestion.

The Chair (Mr. Grant Crack): Thank you. Mr. Fraser.

Mr. John Fraser: I just want to reiterate and add again that this is something we all agree on. It's not about a priority for any one party. It's a priority for people in small business. We've all agreed on that. So as far as a priority is concerned, I think that should be at the top of the list, and we can find a way to get this done. I'm not suggesting that we put other things aside. That's my suggestion.

The Chair (Mr. Grant Crack): Thank you. Mr. Jackson?

Mr. Rod Jackson: Yes. I just want to remind everybody that we have actually voted to make this Pan Am investigation happen immediately—in the original motion. What this motion in front of us does is actually state the parameters of how this investigation will go forward. To debate when it's going to happen is kind of moot, because we've already voted as a committee in favour of making this investigation happen immediately.

I suggest that we call the vote. Obviously, we need to start talking about the actual motion in front of us. We've already decided that this is going to happen immediately. Talking about when we're going to start it and if anything is going to happen before it is a moot point. As I've said before, we've already determined that it's going to happen immediately. Let's get on with the business of how we're going to get through this and move it along, so that we can move the agenda along.

This is starting to get a little bit frustrating, hearing the other side repeat themselves about when this is going to start and other priorities and whatnot. We've determined what the priorities of this committee are going to be right now, and it's the Pan Am Games. We've made that determination with the motion that we passed originally.

1440

The Chair (Mr. Grant Crack): Thank you. Ms. Damerla.

Ms. Dipika Damerla: I just want to say to MPP Jackson, I don't think anybody is debating whether the Pan Am review should take place. That train has moved along or that bus has left. What we are trying to figure out is how all parties, in the limited time that we have, can put forward their priorities, as opposed to one priority taking up all of the time. That's all we're seeking at this point. Nobody is debating the fact that this review is going to take place. All we are asking for is—what if we took Bill 21 and just tied up the committee forever on Bill 21? That would not have been fair. That's all we're saying.

The Chair (Mr. Grant Crack): Thank you. Ms. Campbell.

Ms. Sarah Campbell: I'd like to call the question, Chair.

The Chair (Mr. Grant Crack): Okay. Thank you very much. Is there any further discussion? Mr. Fraser.

Mr. John Fraser: I'll remind everybody that we have a blank day on Wednesday and that we're not going to be able to do the business that the member is putting forward. We're not going to be able to call witnesses.

The Chair (Mr. Grant Crack): Ms. Scott.

Ms. Laurie Scott: It says that for witnesses, you can still call people for Wednesday, I believe. Right? We had in there—which we can make an amendment to remove, if you want—that we could call people. We're getting into a process right now. We just want to vote on one amendment at a time, as my colleague has said. You're into details of the process at the moment.

Am I correct, Clerk, that we can still call someone—they're all witnesses, aren't they? So if we decided to call someone within the bureaucracy for Wednesday, is that possible?

The Clerk of the Committee (Ms. Sylwia Przewdziecki): Yes, if the committee wanted to invite someone to appear.

Ms. Laurie Scott: You're saying that it's a wasted day, but it doesn't have to be.

Mr. John Fraser: In fairness, in the motion that's before us, it says "five days," and if the committee wants to be able to—

Interjection.

Mr. John Fraser: No, it says in his motion—

Ms. Peggy Sattler: Point of order.

Interjection.

Mr. John Fraser: So just in terms of the committee's ability to prepare and a witness's ability to prepare, that's why I'm suggesting—

The Chair (Mr. Grant Crack): Point of order. Ms. Sattler.

Ms. Peggy Sattler: We're not talking about the motion right now. We're talking about the amendment.

Mr. John Fraser: That's fine. Understood.

The Chair (Mr. Grant Crack): Ms. Damerla.

Ms. Dipika Damerla: Chair, I just wanted to say—they've asked for a vote on this, but I just wanted to flag that I do have other amendments. I just wanted to flag that for you procedurally so that I do get a chance, once we have voted on this. If required, I will have other amendments.

The Chair (Mr. Grant Crack): Okay. Any further discussion? I'll call the question. Those in favour? Those opposed? The motion is defeated. Amendment 1 is defeated.

We'll move to amendment 2. Any discussion on amendment 2?

Ms. Dipika Damerla: Chair, can we ask for a 15-minute recess?

Ms. Laurie Scott: Ten.

Ms. Dipika Damerla: Ten? Fine, 10.

The Chair (Mr. Grant Crack): We'll recess for 10 minutes.

The committee recessed from 1443 to 1455.

The Chair (Mr. Grant Crack): The 10-minute recess has completed, so I guess we are moving back to the—oh, Ms. Damerla?

Ms. Dipika Damerla: So, Chair, given that our first amendment failed, it makes amendments numbers 2 and 3 moot at this point, so I'm going to withdraw them. Instead, I am going to introduce a fourth amendment. I believe—

Interjection.

Ms. Dipika Damerla: All I said was that we are withdrawing 2 and 3, so we're introducing amendment number 4. I believe the Clerk has copies—I don't know if they've been distributed—so, with your permission, I'll go ahead and read it into the record.

The Chair (Mr. Grant Crack): Yes, go ahead.

Ms. Dipika Damerla: Thank you. I move that the first paragraph of the motion be amended such that the following wording be added after "with the exception of meetings already agreed to by the committee": "and December 4 and December 9, such days to be devoted to consideration of Bill 105, Supporting Small Businesses Act, 2013."

So what this essentially does is—all we are saying is, give us two days out of the rest of the committee business days for Bill 105. We are taking the last possible two days, so, really, it's at the bottom of the list. The rest of the time, beginning immediately—which is, I guess, when we are past this amendment—can be devoted to the Pan Am review, if the committee so wishes. That's essentially what our amendment is seeking, that every party get a fair shake at committee time, and we are saying that we'll move ours to the last two days in December. That's the last possible day that we can do Bill 105 and still get

it done in time for the new year, January 1, 2014. Thank you, Chair.

The Chair (Mr. Grant Crack): Thank you. Any further discussion?

Ms. Peggy Sattler: Can we have a recess? Five minutes?

The Chair (Mr. Grant Crack): Yes, a five-minute recess.

The committee recessed from 1456 to 1501.

The Chair (Mr. Grant Crack): I'll call the meeting back to order—after a five-minute recess. Is there any further discussion on the amendment? There being none, I shall call the question for a vote.

Mr. John Fraser: Recorded vote.

Ayes

Cansfield, Damerla, Fraser.

Nays

Campbell, Harris, Jackson, Sattler, Scott.

The Chair (Mr. Grant Crack): The motion is defeated.

We're back to the original motion. I would ask, is there any further discussion on the motion?

Interjection: I'm sorry, would you say that again?

The Chair (Mr. Grant Crack): Is there any further discussion on the original motion? Once again, is there any further discussion on the original motion? Ms. Sattler.

Ms. Peggy Sattler: Yes, just again on a process question—through the Chair, my question may be directed to the Clerk. Would there be a subcommittee meeting convened to talk about dealing with this business, if this motion passes? The last subcommittee report just referred to those two days, the 25th and the 27th, for auto insurance. Would there have to be another subcommittee meeting held to talk more specifically about how this motion is to be carried through, if it passes?

The Clerk of the Committee (Ms. Sylwia Przewdziecki): That would be up to the committee. The committee could make certain decisions on how it wishes to proceed right here in full committee, or one of the subcommittee members could ask the Chair to call a subcommittee meeting for further discussion.

Ms. Peggy Sattler: Okay. Thank you.

The Chair (Mr. Grant Crack): Mr. Fraser.

Mr. John Fraser: Just for my own edification, when this motion is passed, what is our organization over the next four weeks in sittings?

The Chair (Mr. Grant Crack): Following business here, I was going to be asking if there was a request for another subcommittee meeting to deal with specifics regarding the 25th and the 27th—which is specific, I believe, to the auto insurance issue—to determine how we could potentially move forward with that. Again, it's up

to the committee here as a full committee to provide some direction.

Mr. John Fraser: Thank you.

The Chair (Mr. Grant Crack): Any further discussion on the original motion? There being none, I shall call for a vote on the question. Those in favour of the original motion? Any opposed? The motion's carried.

Is there any other business of the committee? There being none, I would just like to mention, as I had mentioned previously, is it the wish of the subcommittee to meet again to determine how we're going to move forward with the auto insurance issue?

Ms. Laurie Scott: Can we just ask for a five-minute recess right now before you get to that point on other business?

The Chair (Mr. Grant Crack): Okay.

Ms. Laurie Scott: It's only five minutes.

The Chair (Mr. Grant Crack): A five-minute recess. *The committee recessed from 1506 to 1511.*

The Chair (Mr. Grant Crack): Okay. The five minutes is up. Mr. Jackson?

Mr. Rod Jackson: Thank you, Chair. It's my hope that committee, based on an earlier discussion—and certainly, I think, a mutual willingness by everybody not to waste a day—that the committee will agree to call Deputy Minister Steven Davidson responsible for the Pan Am Games on Wednesday so that we don't have to have an empty day there.

The Chair (Mr. Grant Crack): Ms. Damerla?

Ms. Dipika Damerla: We ask for a five-minute recess, Chair.

The Chair (Mr. Grant Crack): Okay. For our members from the third party, there was just a request to fill in the Wednesday date with Deputy Minister Steven Davidson responsible for the Pan Am Games.

Ms. Sarah Campbell: Chair, who made that motion or that suggestion?

The Chair (Mr. Grant Crack): Mr. Jackson, and Ms. Damerla has asked for a five-minute recess. So I shall grant the five-minute recess, effective immediately.

The committee recessed from 1512 to 1517.

The Chair (Mr. Grant Crack): I call the meeting back to order after a five-minute recess. Any further discussion on the request? Ms. Damerla.

Ms. Dipika Damerla: Thank you, Chair. I just wanted to suggest to the committee, building on what MPP Campbell said, that properly these issues, the details of how we proceed further with the review, should be discussed in a subcommittee meeting, before we just ad hoc say that we're calling this person or that person, just to decide on some of the terms. So I'm just going to request that we defer the details until we have a subcommittee meeting.

The Chair (Mr. Grant Crack): Okay. Any further discussion? Mr. Jackson.

Mr. Rod Jackson: Just in response to that, we would like to move on this and make sure that the Wednesday date is filled up. Actually, the reason I thought Steven Davidson might be a good, non-controversial ask is

because he's the deputy minister responsible. He has been through estimates on this subject to a certain extent. He's very familiar with the file. It is his portfolio. He's very capable and is aware that there's an impending investigation happening. So there are no surprises for this witness. He's probably expecting to be called, I would think, and I think will be able to provide some really insightful information for all of us. So I'm not sure that we're going to get any value from deferring this to subcommittee. He's kind of an obvious first choice, I think, a logical first choice to move ahead with.

The Chair (Mr. Grant Crack): Okay. Thank you. Any further discussion?

Ms. Dipika Damerla: I'm just going to reiterate that I think, typically, we would discuss all of this in a subcommittee before we went forward. So that would be my request. Thank you.

The Chair (Mr. Grant Crack): Any further discussion? There being none, we have a request to the committee to call the first witness on Wednesday, that being Mr. Steven Davison. Is it Davison or Davidson?

Mr. Rod Jackson: Davidson.

The Chair (Mr. Grant Crack): Davidson. So I guess I would call a vote on that?

Interjection.

The Chair (Mr. Grant Crack): Is it a motion? Are you looking for unanimous consent?

Mr. Michael Harris: Just call the first witness. The motion states that we're having hearings, so he's the first in line, right?

The Chair (Mr. Grant Crack): I think we would need to have the consensus of the committee to determine who we want to hear from or whom the committee would like to hear from.

Ms. Laurie Scott: Whatever the procedure is.

Mr. Michael Harris: Clerk, what is the procedure on calling witnesses?

The Clerk of the Committee (Ms. Sylwia Przedziecki): Sorry, can you repeat the question?

Mr. Michael Harris: What is the procedure on the committee formalizing this witness list or calling that first witness—

Ms. Laurie Scott: Do we have to have a vote, I guess is what we're saying.

The Clerk of the Committee (Ms. Sylwia Przedziecki): Well, I didn't understand that it was a formal motion that was moved that would require a vote. However, the committee did just pass a motion that set out a procedure with an advance notice of five days, so this would be contrary to what the committee passed. However, if the committee directs the Clerk to invite the deputy minister, then I will do as the committee requests.

The Chair (Mr. Grant Crack): Okay, so I would need, at minimum, some consent here on behalf of the committee to—

Interjections.

The Chair (Mr. Grant Crack): There's no opposition?

Mrs. Donna H. Cansfield: No opposition.

The Chair (Mr. Grant Crack): Okay, so it will stand that there's consent of the committee to call the first witness, Mr. Steven Davidson, for Wednesday.

Okay, then, any further business? Ms. Campbell.

Ms. Sarah Campbell: I have a motion. I move that the Clerk of the Committee post information regarding the committee's business with respect to the standing order 111(a) auto insurance review in English and French on the Ontario parliamentary channel, on the Legislative Assembly website, and with the CNW newswire service immediately; and

That interested people who wish to be considered to make an oral presentation should contact the Clerk of the Committee as soon as possible; and

That the Clerk of the Committee, in consultation with the Chair, be authorized to schedule witness presentations on the standing order 111(a) auto insurance review as the requests are received, on a first-come, first-served basis; and

That presentations be scheduled in 35-minute time slots, and that groups and individuals be offered five minutes for their presentations, followed by up to 10 minutes for questions per caucus.

The Chair (Mr. Grant Crack): Thank you very much. We have a motion on the floor. Is there any further discussion on the motion? Am I allowed to ask a question?

Interjection.

The Chair (Mr. Grant Crack): I would suspect that if this motion carries, then there's no need to convene a subcommittee meeting. That's basically what's happening. Is that correct?

Interjection.

The Chair (Mr. Grant Crack): I'm being advised that there could be more details that the Clerk would require in order to move forward with this, so perhaps a subcommittee meeting would also be necessary.

But for this particular motion, I'll ask for further discussion. Ms. Damerla?

Ms. Dipika Damerla: Just for clarification, which dates were these for?

Ms. Sarah Campbell: The dates that have already been agreed to at the subcommittee and that have been approved by this committee, which are Monday, November 25, and Wednesday, November 27.

Ms. Dipika Damerla: Okay. I just wanted to confirm that.

The Chair (Mr. Grant Crack): Any further discussion? There being none, those in favour of the motion? Those opposed? The motion is carried.

Any further business? There being none, is it the will of the subcommittee members to meet following this particular meeting, or shall we—okay, no, there's no interest in that.

Ms. Campbell?

Ms. Sarah Campbell: Could we perhaps meet the morning of this Wednesday?

Ms. Dipika Damerla: We'll have to get back to the Clerk on that.

Interjection.

The Chair (Mr. Grant Crack): There has been a proposal for Wednesday morning, and perhaps the other members of the subcommittee could confirm that, and maybe the Clerk can advise us as to attendance of the three parties.

Interjection.

The Chair (Mr. Grant Crack): What would the topic be? Well, perhaps the Clerk—

Ms. Sarah Campbell: The Chair suggested that we have a subcommittee.

The Chair (Mr. Grant Crack): Perhaps the Clerk could just provide some more details as to what she's going to require in order to move forward with the auto insurance issue on November 25 and 27. Is there other information and direction that you need from the subcommittee?

The Clerk of the Committee (Ms. Sylwia Przewdziecki): Well, there are a number of details that are normally established by the subcommittee. I'll put the question to the research officer, but are there any directions to research at this point, what any of the committee's expectations might be with respect to research?

Ms. Sarah Campbell: I don't think so.

Ms. Dipika Damerla: There's no topic? You're just asking for a subcommittee meeting? There's no topic in mind?

Ms. Sarah Campbell: No, I wasn't asking for a subcommittee meeting. I put forward the motion, and the Clerk of the Committee had said that there may be some outstanding issues that were not addressed by this motion.

Ms. Dipika Damerla: Oh, okay.

Mr. Michael Harris: Such as?

Ms. Laurie Scott: We're finding out—or do you want to wait and then—can we do it now?

The Clerk of the Committee (Ms. Sylwia Przewdziecki): Well, such as any directions to the research officer. Are there any from the committee at this point?

Ms. Sarah Campbell: No.

The Chair (Mr. Grant Crack): There being none, then what we will do is I'll have further discussions with the Clerk. If there's a requirement for further information on her part, or direction from the subcommittee, I will convene a subcommittee meeting. Is that fair enough?

Okay, any further business? This meeting is adjourned.

The committee adjourned at 1525.

CONTENTS

Monday 18 November 2013

Committee business	G-355
--------------------------	-------

STANDING COMMITTEE ON GENERAL GOVERNMENT

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xc 16
- G 23

Document
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G-24

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Mercredi 20 novembre 2013

Standing Committee on General Government

Pan/Parapan American
Games review

Comité permanent des affaires gouvernementales

Étude portant sur
les Jeux panaméricains
et parapanaméricains



Chair: Grant Crack
Clerk: Sylwia Przedziecki

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Wednesday 20 November 2013

Mercredi 20 novembre 2013

*The committee met at 1601 in committee room 2.*PAN/PARAPAN AMERICAN
GAMES REVIEW

The Chair (Mr. Grant Crack): I'd like to call the meeting of the Standing Committee on General Government to order. I'd like to welcome members from all three parties.

PAN/PARAPAN AMERICAN
GAMES SECRETARIAT

The Chair (Mr. Grant Crack): Today we have one item on the agenda concerning the Pan/Parapan American Games Secretariat. It gives me great pleasure to welcome Steven Davidson, deputy minister, as well as Nancy Mudrinic, assistant deputy minister, risk management and financial oversight. Please feel free to come on up and take your chairs.

Unfortunately, I will have to step out for a few minutes, at which time I will ask Mr. Fraser to sit in as Chair. So to help him out, as we change, I would ask the two of you, for the record, just to state your names and positions as I've indicated. Welcome, and I shall be back.

Mr. Steven Davidson: Okay. Thank you very much. My name is Steven Davidson. I'm the Deputy Minister of Tourism, Culture and Sport and the deputy minister for the Pan/Parapan Am Games Secretariat.

Ms. Nancy Mudrinic: I'm Nancy Mudrinic. I'm the assistant deputy minister of risk management and financial oversight for the Pan/Parapan American Games Secretariat.

The Acting Chair (Mr. John Fraser): Thank you very much. You have five minutes for your presentation. Please feel free to start.

Mr. Steven Davidson: Thank you very much. Good afternoon, Chair, committee members. I appreciate the invitation to appear before the committee today and the opportunity to provide a brief opening statement.

I'm joined this afternoon, as we've said, by Nancy Mudrinic, the assistant deputy minister of risk management and financial oversight at the Pan/Parapan Am Games Secretariat.

As you know, I'm the Deputy Minister of Tourism, Culture and Sport. On July 2 of this year, I was also appointed deputy minister for the Pan/Parapan Am Games

Secretariat. So I've been in the Pan Am role now for just over four months. I will do my absolute best to answer the committee's questions and clarify issues to the best of my knowledge based on the time that I've been in the role.

I'd note that I have also provided to the Clerk copies of two documents for distribution to you that were shared in a technical briefing this morning, and I think those have been distributed.

I'd like to begin by emphasizing the size and scope of these games. These are the largest games ever to be held in Canada, and on a geographic footprint of about 10,000 square kilometres. So this obviously drives complexity in planning and costs in terms of delivery, and it requires the collaboration and co-operation of multiple partners.

The responsibility to stage and deliver the games rests with the games organizing committee, TO2015. TO2015 is an independent, not-for-profit corporation accountable through its board of directors to its funders and stakeholders. This is the typical governance model for all major international multi-sport games.

To deliver its responsibilities, TO2015 has a games delivery budget of \$1.4 billion, made up of contributions from the federal and provincial governments, municipalities, universities and games' revenue.

Ontario, like all host jurisdictions, has investment responsibilities beyond its contribution to TO2015's budget. All host jurisdictions typically invest in significant legacy initiatives to ensure a lasting benefit for the games, and they also make investments in essential services to ensure citizens and visitors can enjoy the games in a safe and secure environment, and that traffic disruption is minimized and public health protected.

The provincial government has announced a number of legacy investments over the past couple of years which are outside its \$500-million investment in TO2015's budget, and these include the \$709-million investment in the athletes' village in the West Don Lands.

Transportation planning, led by the Ministry of Transportation, and security planning, led by the Ministry of Community Safety and Correctional Services, are both highly dependent on detailed operational decisions being made by TO2015. The current cost estimates are \$206 million for security and a range of \$75 million to \$90 million for transportation.

To ensure coordinated planning and delivery, and accountability for its investment in the games' organizing

committee, host jurisdictions also typically establish an oversight office or secretariat—this was the case in both Vancouver and London. In Ontario, of course, that's the Pan/Parapan American Games Secretariat, which I lead and which reports to Minister Chan.

The secretariat has three main areas of responsibility: providing oversight of the provincial investment in TO2015's budget; coordinating games-related activities of other provincial ministries, and coordinating and partnering with the federal government and municipalities in planning and delivery of services; and finally, developing and implementing Ontario's legacy for the games, including a celebration and legacy strategy and oversight of the provincial investment in the athletes' village, which is being managed by Infrastructure Ontario.

Finally, as the committee is aware, the ministry and the secretariat were recently before the Standing Committee on Estimates, which passed a motion directing the ministry and the secretariat to provide to the committee all correspondence and notes related to the 2015 Pan/Parapan Am Games, from January 1, 2010, to October 3, 2013. The volume of materials resulting from the scope of the request means the document search process is still ongoing. Yesterday, the ministry and the secretariat delivered the first package of approximately 21,000 responsive records, totalling about 76,000 pages. We'll continue to comply with the motion, and our next disclosure package will be provided as soon as possible, which we anticipate to be within the next several weeks.

I'd be happy to provide whatever additional information may be helpful to the committee, and I look forward to your questions.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much, Mr. Davidson. That's right on time.

We will start the rotation with the Progressive Conservatives.

Mr. Rob Leone: Madam Chair, I was wondering if we could be provided with a copy of his written remarks.

The Vice-Chair (Mrs. Donna H. Cansfield): Yes, that's possible.

Mr. Steven Davidson: Sure. I didn't bring extra copies—

The Vice-Chair (Mrs. Donna H. Cansfield): We'll get extra copies. We'll have them done for you, if we could have a copy.

Mr. Steven Davidson: We have one extra copy.

The Vice-Chair (Mrs. Donna H. Cansfield): We'll make extra copies for everyone.

Mr. Steven Davidson: Okay.

Mr. Rob Leone: Thank you.

Mr. Jackson?

The Vice-Chair (Mrs. Donna H. Cansfield): Mr. Jackson, are you going to take the lead? If you'll just give me one moment, we're going to reset the clock so you don't lose your time.

Mr. Rod Jackson: No worries.

The Vice-Chair (Mrs. Donna H. Cansfield): Great. At your leisure, sir, go ahead.

Mr. Rod Jackson: Thank you.

Thank you again for coming in today. I really do appreciate you coming in and sharing everything you know with us.

I'd like to talk a little bit about the secretariat: the organizational structure there, the size of it and that sort of thing. Originally, I think the secretariat was nine people in size. Now, of course, I understand this is going to grow as we get closer to the games or as we progress. It has fluctuated since then. It has gone up; it has gone down a little bit. Can you give me an idea of the size of the secretariat now, people-wise and salary-wise?

Mr. Steven Davidson: Thanks for the question. The secretariat has certainly evolved over time. As I said, I joined at the beginning of July, with it as a stand-alone secretariat, which it has been since—sorry, I have that. It was in—

Ms. Nancy Mudrinic: January 2011.

Mr. Steven Davidson: —2011, I believe, that it was separated out from the Ministry of Health Promotion and Sport. But it did begin as a very small entity. Right now, in maturity, it has a five-year budget of \$49 million and 58 full-time equivalents, FTEs, attached to it. So from—

Mr. Rod Jackson: I'm sorry. How many? I just missed that.

Mr. Steven Davidson: Fifty-eight.

Mr. Rod Jackson: Fifty-eight. Okay.

Mr. Steven Davidson: That's in our approved allocation. From time to time, that is supplemented by students or interns. We try to take advantage of those programs if we can, and it's a great opportunity for university students to come in and participate in something that's very different. So it does ebb and flow a little bit. I can't tell you the number today, but I know we are managing a couple of vacancies, so it may actually be under the 58.

Organizationally, it's headed by a deputy, who is accountable to a minister. There are three divisions within it, each led by an assistant deputy minister. Nancy, maybe you could find the org chart in there.

1610

Nancy, to my left, is head of the operation that's responsible for the oversight and risk management challenge function, to use that phrase, on TO2015 and their delivery of the games. That takes a variety of forms. Most formally, it has a few formal accountability responsibilities attached to it. One of the control accountability tools that the provincial and federal governments have over TO2015 is approval of their business plan. Nancy's organization would do the due diligence on the business plan, and from time to time secure the advice of an outside consultant such as Deloitte, say, to give a third party validation on TO2015's planning assumptions and that sort of thing, arriving at an approval recommendation that we would take forward to the minister. That's a very formal, discrete part of it that happens periodically through the planning cycle as we move toward the delivery of the games, so once annually.

Ongoing, there's—Nancy could talk to you about this in much more detail, but I'll try to give you the blocks

and then we can dive in more deeply if you like—a risk management or risk-tracking system, which is really critically important in managing particularly the province's financial exposure over TO2015's operational delivery of the games. So there's a fairly sophisticated IT program that is in place. There's regular data that we receive, and it is tracked in terms of level of likelihood and severity of the risk. That's part of that function that is very much ongoing and very much in real time in terms of our engagement with them.

The bottom line for us is ensuring that TO2015 has developed and has in place mitigation strategies so that—this is big and complicated and there are risks. There are financial risks and there are delivery risks. With some of them we have more control levers than others, so the critical thing is that it's an eyes-wide-open enterprise, in that we have full information from them about what the state of risk is and that we have confidence in their risk-management strategies; and when we don't, we challenge them.

Those are big parts of Nancy's compliance with the Broader Public Sector Accountability Act directives around expenses and procurement, ensuring that they are engaging in competitive procurement processes. We may want to come back and talk later about the expenses piece, but the requirement of the directive is that they have a policy. The directive is less specific on the contents of that policy. It's different than for the Ontario public service, the OPS; our directives are quite specific. They must have a policy approved by their board. That's not to say that we would just passively accept that, and, as you know, we've done a couple of interventions on that. That challenge on their operations is under Nancy.

I'll shift over to Steve Harlow's division, which is called "partner engagement and legacy division." This is the other significant function of the secretariat, which is not the challenge function. It's a direct delivery and planning coordination function.

Maybe before I describe that, if you'll let me, I'll just step back and make just one comment in terms of what I've come to understand about these offices or secretariats that host jurisdiction governments typically set up to protect their interests. There's a variety of models. There's one model that's highly centralized, where everything is in this secretariat, and there's another model where it's highly devolved. We're, I would say, somewhere in the middle in terms of, we've absolutely got the core challenge function that is Nancy's on financial and delivery risk, but we've also got responsibility for direct delivery and coordination. But the Ministry of Transportation, as you know, has the ultimate lead on transportation planning and the Ministry of Community Safety and Correctional Services has the lead on security planning. So we're devolved out. We're somewhat decentralized, but there's a fair bit of direct delivery responsibility in the secretariat. Thanks for letting me explain that.

Coming back to Steve's role, this division is responsible, I'd say, fundamentally for the government's legacy

interests and coordination of all the parties who need to collaborate and co-operate with us to ensure delivery of a successful games. Right away, there's the shared accountability interest that we and the federal government have; we're both investing \$500 million in TO2015 and their \$1.4-billion budget. We share that accountability interest, so there's a fair bit of coordination in terms of the engagement of the federal government and us.

There are 14 host municipalities that have very much a role to play, both in directly delivering services to support the games and also in participating in the planning exercises that are supporting delivery—so on transportation, on security, but also with TO2015 in direct delivery.

Coordinating those interests—and they're hugely variable. The city of Toronto and Minden and Caledon—there's a lot of variability amongst them, so that's an important coordinating role. And then outside government, there's the myriad of stakeholders who have an interest, the sports groups and all of that.

So there's the coordination side and then direct delivery of the government's celebration and legacy strategy. That's the \$42-million strategy that was announced last August. It's a multi-ministry initiative. Some elements of it have been announced; the trails strategy has been announced. Others will be announced in the coming weeks and months. But it's a fairly all-of-government, multi-ministry effort, so coordinating the planning of that and then now moving into direct delivery is that function.

The third and final division is one that is headed by Tim Casey, and it's called—I'm sorry; I don't refer to them by their names.

Ms. Nancy Mudrinic: Games delivery and infrastructure.

Mr. Steven Davidson: Games delivery and infrastructure.

The primary responsibility of this division is to oversee the construction of the athletes' village in the West Don Lands. This is the flagship legacy initiative of the government. It's the single largest investment in the games, at \$709 million. It's being managed by Infrastructure Ontario but, consistent with other games of this nature, the responsibility for construction of the athletes' village is not one that is typically devolved out to the games' organizing committee. It's one that is typically delivered directly by the host jurisdiction government, and that's the case here. The reasons for that are the size of the investment and the significant economic urban renewal impact that these projects typically have. So London and Vancouver all managed directly their village projects; we're the same. This is overseen by Tim's division.

Also, I've used the word "coordination" a couple of times, but I'll use it again here because, notwithstanding that security and transportation are being led by our partner ministries, it is the responsibility of the secretariat to ensure that there's a well-coordinated, coherent approach to our elected decision-makers—treasury board,

cabinet—as we take items forward, that this is well coordinated and has policy coherence. So coordinating and being very involved in the planning for those is a key part of that division's mandate.

That's sort of the scope of it.

Mr. Rod Jackson: Thank you.

Mr. Rob Leone: Sorry, Chair, I'd like to ask a question.

You mentioned that one of the biggest legacy costs was the athletes' village; you spent a great deal of time talking about it. But earlier in your remarks, you suggested that there were other legacy costs that games typically have that aren't included in this budget. I'm just wondering, why would we include the athletes' village in the budget for the overall budget of the games as a legacy cost, but the other legacy costs are not included in the budget?

Mr. Steven Davidson: Oh, sorry. When I said "not included," I meant not included in the TO2015 budget, so the budget—

Mr. Rob Leone: No, I understand that, but in the \$1.4 billion or whatever the number is, you've included some legacy costs but not others.

Mr. Steven Davidson: No.

Mr. Rob Leone: That's not correct?

1620

Mr. Steven Davidson: No. If we could just look, in the slide deck, at the table on page 7, which does show the breakdown of Ontario's financial contributions to the games. Sorry; it's kind of dense, and I apologize for that, but the table at the top is TO2015's budget. You'll see the total of \$1.4 billion over on the right-hand side, but if you move back to Ontario's contribution, you'll see how that \$500 million spreads across: a \$413-million contribution to operating, an \$82-million contribution to the contingency fund and so on.

The table at the bottom of the page: These are Ontario's host jurisdiction investment responsibilities. The first six, I think, of those are what we're terming legacy investments. That includes the \$709-million investment in the athletes' village. There's a provincial investment in the Hamilton stadium and in the Goldring centre at the University of Toronto.

Oh, I'm sorry; the secretariat is absolutely not a legacy cost. But skipping over that, the legacy strategy is broken out into two. This is the \$42-million investment last August; about half of that was legacy and about half of that was actually celebration and promotion. I'm sorry I misspoke on that. That's the bucket of provincial investments right now in legacy.

Mr. Rob Leone: So there's a billion dollars.

Mr. Steven Davidson: Now, the ones on the bottom—transportation, security and so on—aren't legacy costs. These are the host jurisdiction's service and delivery responsibilities. These numbers, I would just caution to say, aren't final. Planning for these is under way. There is a high degree of interdependence between planning for these items and the on-the-ground operational delivery planning that TO2015 is engaged in. As they make on-

the-ground operational decisions, those inform the transportation and security planning, so it's an iterative process, and it's continuing. It's well under way, but it's continuing.

These are, as of today, the best cost estimates for those. The transportation number, I believe, is one that Minister Murray provided to estimates committee yesterday afternoon—

Mr. Rob Leone: It's a different number than he suggested, but okay.

Mr. Rod Jackson: I have a lot of questions, more about the secretariat, but maybe one simple one you can clear up for me: Actually, just today, just this afternoon, I heard of—correct me if I don't get the name right—the Pan Am legacy fund or something like that.

Mr. Steven Davidson: Oh, yes.

Mr. Rod Jackson: For example, the Trans Canada Trail people had come to one of our member's communities and said that there was maybe money available to help build a bridge for the Trans Canada Trail somewhere up near Rama. They suggested a number, something like \$6 million—I don't know. It was something I was completely unfamiliar with, and I'm wondering if you know anything about that, or if that's something somewhere else that we haven't heard about yet.

Mr. Steven Davidson: I'm familiar with two things, and they're separate. As the comment came from the trails organization, what I might anticipate is that the trails organization was referring to one of the elements which has been announced in the government's \$22-million legacy strategy. An element of that is capital investment in plugging some gaps in the Trans Canada Trail that runs through Ontario. That will be a legacy left behind after the games. So they might have been referring to that.

There's an entirely separate entity which—I acknowledge that using the same terms for different things isn't always all that helpful, but there is a legacy fund which was actually announced probably two weeks ago now. I could just show you, back on a table. This is in TO2015's budget, and it's referred to here, on the third line down under TO2015, as "Post-games venue support."

One of the elements, I believe, in the multi-party agreement that established the framework for the delivery of the games was recognition that there be established a legacy fund which would be invested and used to support the ongoing operational and capital, in terms of repair and rehab, costs associated with key legacy venues. The velodrome, the aquatic centre in Scarborough and the athletic centre at York are the beneficiaries of that fund, which will be managed by the Toronto Community Foundation. The federal government has \$65 million in it and the province has \$5 million, for a total of \$70 million, and that's the legacy fund. You may have heard about that—it was announced, as I said, just very recently—but it doesn't have anything to do with trails.

Mr. Rod Jackson: Okay. It's a bit of a mystery there. I'll just have to find out more about it to be able to ask a more pointed question.

How much time, Chair?

The Chair (Mr. Grant Crack): Mr. Jackson, 2:18.

Mr. Rod Jackson: Okay. Maybe I'll start this question and we may have to come back to it later.

Can you explain to me—sorry, is it Mudrinic? Is that right?

Ms. Nancy Mudrinic: That's right.

Mr. Rod Jackson: I might have to just call you Nancy.

Ms. Nancy Mudrinic: That's okay.

Mr. Rod Jackson: Can you explain your job and your relationship with TO2015, and how that relationship works?

Ms. Nancy Mudrinic: Well, my job, as the deputy described, is financial oversight and risk management. I work closely with Toronto 2015, and I guess my counterpart there is the CFO of the organization. We work on and look at the financial reports of the organizing committee. They produce financial reports to us that provide us with information on their budget and how they're tracking.

Our two organizations work very closely together on financial reporting and risk management. They also have a complex risk management process in their organization that tracks projects and timelines associated with their delivery. We look at that for areas of interest to us and the province, and how it may intersect with some of our deliveries, as the deputy described, in terms of games delivery and infrastructure, and any impacts that may have on transportation or security. So we do that together. I work with the Ontario internal audit division in terms of audits of the organizing committee, as a part of the broader public sector accountability directive. There are compliance audits that the government will do, so my group works closely with OIAD on the development of those audits over time. That's generally what we do.

I also work closely with the Ministry of Finance. Like in any government organization, we report to the Ministry of Finance as a part of the ministry's quarterly reporting process. As we have been part of different ministries—Health Promotion and Sport and now the Ministry of Tourism, Culture and Sport—we work with those offices in terms of regular quarterly reporting, as any ministry is required to do. We're involved in the result-based plan process and the budgeting process—all of those usual annual reporting processes that happen in any government organization.

The Chair (Mr. Grant Crack): Okay. Thank you very much. I appreciate that. We'll move to the third party. Ms. Sattler.

Ms. Peggy Sattler: Thank you. You mentioned in your introductory remarks, Mr. Davidson, that the main ministries you work with are community safety and transportation, but that the secretariat, I guess, also coordinates activities with other provincial ministries that are involved in the games. Can you tell me what other provincial ministries are involved and what kinds of activities you are coordinating?

Mr. Steven Davidson: Sure. Transportation and security have their own responsibilities and account-

abilities for big chunks of it. That's why I highlighted those specifically. But as Nancy said—first, I think I probably need to mention, just again, finance. We work very, very closely with the central controller's office, finance, Cabinet Office and so on. This is a whole-of-government priority, and certainly the direction out to ministries is, as we think about the various ways we can all contribute to the delivery of a successful games, all of us—and by that I'm saying all deputies—need to be thinking about how we can contribute and participate toward the successful delivery of the games.

So in one piece of it, the planning I referred to earlier to produce the government's celebration and legacy strategy involved a broad array of ministries. I want to be careful here, in terms of what specific initiatives have been announced and what is within the government's purview to announce at a time of its choosing. But I would just say, certainly, that ministries such as citizenship, children and youth services, and education, which are involved with kids who would benefit from opportunities to participate in the games or activities that are related to the games, have been important partners with us.

1630

Economic ministries, such as economic development and trade in particular—there's a big business-to-business, B2B, opportunity here, as the games put Ontario on the map for emerging economies such as Brazil, Argentina and Mexico. Wearing my other hat, as tourism deputy, we're very interested in this and the opportunity that it affords, and so is our marketing agency, the Ontario Tourism Marketing Partnership Corp.

The Ministry of Municipal Affairs and Housing: There are 14 municipalities formally hosting venues, so MMAH has been a critical partner with us in, first, providing advice on engaging with their stakeholders and key partners in helping us ensure that we're providing the right opportunities for those municipalities to engage early on in critical-planning pieces that are going to impact on them.

I'm trying to think of ministries that aren't involved. The Ministry of Health is certainly important in assessing what incremental health services may be required during the games and how those can be defined and so on, so also a key partner.

Ms. Peggy Sattler: The budgets for any initiatives that are undertaken by those other ministries, like education or citizenship, would that budget be captured on this table, and in which—across categories? Or is that part of the 2015 operating budget?

Mr. Steven Davidson: That's a very good question, so let me explain. For discrete initiatives that are a part of the government's celebration and legacy strategy that are being funded through the \$42-million investment, that is above—say for me with the Ministry of Tourism, that is above my base tourism budget. I'm going to use a hypothetical example, say the Ministry of Education: If it were to have an initiative under this, that would be out of the \$42-million budget and in addition to their base budget.

But I do want to be clear that this is a whole-of-government approach. This is a core priority for the government to deliver successful games. So I am also responsible, as are my colleagues, for looking for ways—are there ways that we can contribute in-kind value to Toronto 2015 to help either offset costs that they may have, mitigate risks and pressures that they are identifying or, in the best-case scenario, supplement and enhance what they are doing, and can we do it in a way that is offset within our base, recognizing that this is core business for us as we head to and deliver in 2015?

To the issue of transparency on that, because those would not be identified in this column, that is where each ministry's estimates and the line items in those—each of us, as deputies, would be certainly accountable for understanding where those offsets were and what contribution we were making. We would be very transparent about that, but they wouldn't appear on this incremental investment table, if you understand.

Ms. Peggy Sattler: Okay. I want to turn to the security costs. You had mentioned \$206 million, and I see that there was an initial budget of \$113 million, and now there's an additional \$93 million of projected costs. Why the disparity between the original projected security budget and what you're now looking at, which, as you've mentioned, may change? The \$206 million is just what your current thinking is; is that correct?

Mr. Steven Davidson: Well, that's a reflection of the integrated security unit's current state of planning and their best projection right now.

Let me go back and explain the \$113 million. There is \$113 million in the TO2015 budget for security. Two points to make on that: First, PASO, which is the Pan American Sports Organization—that's the organization that holds the franchise to the Pan Am Games. One of their requirements of all bid jurisdictions is that the proposed bid budget include a proposed notional security budget. That was required to be in our bid budget at the time. You can appreciate that the information available in terms of the operational planning and delivery of the games was very, very preliminary. TO2015 hadn't even begun to plan for its delivery of the games. So information that's available now, in terms of venues, scheduling, those sorts of things, was not available at that time.

The \$113 million was based on the very scant information available at that time, but I think it's fair to say—I wasn't there then, but this is my understanding—that there wasn't an anticipation that once detailed operational planning was undertaken, the \$113 million would necessarily be the final number, because it was based upon such preliminary information at such an early stage. But it was required to be there, because that was one of the PASO bid requirements. So there's the \$113 million.

Planning has then proceeded with the integrated security unit by the OPP with the municipal police forces. They're now projecting a cost of \$206 million, so the incremental, the difference, is the \$93 million. That's where you see that on the table, against host jurisdiction responsibilities, so the \$113 million plus the \$93 million.

Ms. Peggy Sattler: There's another table in here, "Multi-Sport Games Comparison." Is that amount that is currently being projected—the \$206 million—as a percentage of the cost of the games, is that sort of in alignment with some of these other games that you've compared? Is that typically what would be spent on security as a portion of the total cost?

Mr. Steven Davidson: I wouldn't presume to speak on behalf of the security experts, but that exact question has been posed to them. I've heard the response, and the response is that there's a very different risk profile for the Pan Am/Parapan Am Games than there is for Olympic Games. You'll note on slide 3 that the security costs for the Olympic Games are significantly higher than are currently being projected for the Pan Am/Parapan Am Games. My understanding from them is that the risk profile—which isn't my business, it's theirs—but the elements that make that up in terms of the individuals who are going to be there and that sort of thing make it a difficult comparison, so it's a little like apples and oranges. But we've put it there because it's an interesting indicator and comparison. But I can't say whether the ratio is typical or not because of that difference.

Ms. Peggy Sattler: One of the concerns that our party had that we raised in the Legislature was around the regulation change that was just filed to give security guards effectively the same powers as police officers. Do you have any background about why it was felt that security guards need the same powers as police officers during the Pan Am Games and the thinking that led to that regulation being filed?

Mr. Steven Davidson: Again, I don't want to speak on behalf of my colleague the deputy at community safety and correctional services. But I would say and what I do know is that the private security guards will all work under the direction of a police officer. Again, I want to be careful, because this isn't technically my area of expertise or my jurisdiction, but I understand they will supplement the security available for activities such as, I think, gates, venue gates—

Ms. Nancy Mudrinic: Parking—

Mr. Steven Davidson: —parking and traffic control, but always working under the supervision of a police officer.

1640

Ms. Peggy Sattler: Does that budget, the \$206 million, include training for these security guards who are going to be—

Mr. Steven Davidson: I believe it does.

Ms. Peggy Sattler: So the training budget is included. Do you know any—

Mr. Steven Davidson: I believe it does. I would want to confirm, but I have no reason to believe otherwise.

Ms. Peggy Sattler: Can you tell us anything about what kind of training is going to be provided? And if the \$206 million includes training, what is the budget for—I guess you don't really know, because you're not sure.

Mr. Steven Davidson: No, and as I said, it's a factor of the somewhat decentralized model we have here. So

the secretariat works closely with MCSCS and transportation to coordinate their work, but they are the experts and they're in charge of it. I'm sure they would be happy to respond on their own behalf—

Ms. Peggy Sattler: About the training question.

Mr. Steven Davidson: —or we could undertake to just get the training breakdown, if that's helpful.

Ms. Peggy Sattler: Yes.

The Chair (Mr. Grant Crack): Mr. Vanthof.

Mr. John Vanthof: Still on security but on the overall budget: Part of security is taken up under the operating budget on page 7, and then the incrementals on the bottom. If you look at the operating budget, you've got \$413 million by Ontario and \$49 million by Canada. I just want to confirm: Is Ontario responsible for the entire security budget, or is there a breakdown between the two?

Mr. Steven Davidson: This is going to sound circular, and I apologize for this: Ontario is responsible for its provincial security responsibilities. If you look across at Canada, there is a \$49-million figure there, and that is for federal essential services. I think that's predominantly immigration, customs and that sort of thing—any incremental service delivery that's required to support the games.

I can't tell you 100% whether or not there is any federal security responsibility in there. I don't believe there is, but I can't say with certainty.

Ms. Nancy Mudrinic: There is, you know, in relation to border security and safety. That is part of the federal essential services. As well, any CSIS intelligence aspect is a service delivered by the federal government. We can confirm this, but I don't believe any services the RCMP may provide are not included in the \$206 million, but we would have to confirm what the division of that is.

Mr. John Vanthof: As a follow-up to that—I don't think you can provide it right now—I would at some point like to see what the actual chain of command is, you know, if the feds are paying for a small portion: If CSIS makes a call or if the Mounties make a call, who pays the bill? Do you know what I mean?

Mr. Steven Davidson: I know exactly what you mean.

Mr. John Vanthof: This is a very complicated project, and somewhere there's a definite chain of command.

Mr. Steven Davidson: Yes. I really don't want to risk misleading the committee.

Mr. John Vanthof: Okay. I'm not asking you to.

Ms. Peggy Sattler: How much time do I have?

The Chair (Mr. Grant Crack): You have four minutes and 10 seconds.

Ms. Peggy Sattler: You mentioned earlier—and I wasn't sure—about the expense policy that would be approved by the board. Did you say that the secretariat requires that TO2015 have an expense policy in place and that it be approved by their board?

Mr. Steven Davidson: TO2015, because of the size of their transfer from the provincial government, their annual transfer comes under the Broader Public Sector

Accountability Act. That act requires any transfer payment recipient that receives more than \$10 million in a single year to comply with the expenses policy—I think the full name is the travel, meal and hospitality procurement directive—and so on.

TO2015 began as a little organization, much like the secretariat, but 2011 was the first year that it received in excess of \$10 million transferred from the province. That means that on April 1, 2012, it came under the requirements of that act, which include that it have its own formal expenses policy. That's not to say that prior to that it wasn't bound by all of the best-practice, good-governance obligations of any independently incorporated non-profit organization. They operate to a high level of accountability, typically. One of our ministry's agencies is the Ontario Trillium Foundation, which provides grants to many of these organizations. So it's not to say that there was nothing in place, but the formal requirement that they have a policy per the terms of that provincial statute—that began on April 1, 2012.

Ms. Peggy Sattler: The audit oversight, the risk management/risk-tracking system—you said it's an IT program monitoring financial exposure. Are the costs of that risk management process also incorporated into the operating budget?

Mr. Steven Davidson: I'll let Nancy speak to that.

Ms. Nancy Mudrinic: A lot of that is staff work, obviously, which is part of the secretariat's budget. If we required any IT services, we would obtain them through the usual government IT platforms that we do have. And if we wanted any services or support through that, we would do that through the item that shows up for the P/PAGS budget, the secretariat budget.

Ms. Peggy Sattler: And did you say that that has been audited annually? Did I hear you say that?

Ms. Nancy Mudrinic: I'm sorry. It's an audit, an internal audit—

Ms. Peggy Sattler: You said the audit—I had noted “audit oversight of the business plan”?

Mr. Steven Davidson: Yes, I referred to an annual approval of a TO2015 business plan. That's different than the audit function.

Ms. Peggy Sattler: Okay, so the audit function occurs—

Ms. Nancy Mudrinic: Ontario has an internal audit division. We're part of a particular cluster with the Ministry of Tourism, Culture and Sport. Those individuals who are part of the Ontario internal audit division perform audit services for the secretariat, in relation to Toronto 2015 and its compliance with the Broader Public Sector Accountability Act.

The Chair (Mr. Grant Crack): Thirty-five seconds.

Ms. Peggy Sattler: And that's ongoing?

Ms. Nancy Mudrinic: Yes.

Ms. Peggy Sattler: Okay.

The Chair (Mr. Grant Crack): That's good? Thank you very much. We shall move to the government side. Ms. Damerla.

Ms. Dipika Damerla: Thank you, Chair.

Deputy, I'd like to begin by thanking you so much for coming. I'm apologizing on behalf of the committee, because I understand that you had to cancel your swearing-in ceremony today as deputy minister.

Mr. Steven Davidson: As deputy minister of Pan Am, ironically.

Ms. Dipika Damerla: Yes, so my apologies.

Interjection.

Ms. Dipika Damerla: Well, I'm sure he has a different opinion.

So I do apologize, and thank you so much for coming at short notice.

Now, Deputy, I know that until yesterday your ministry was working very, very hard to comply with a very broad motion that came forward in estimates by the official opposition, seeking a lot of documentation. Have you ever seen such a broad request for information in your years as a civil servant?

Mr. Steven Davidson: Let me begin by stating unequivocally that both the ministry and the secretariat were pleased to respond to the committee's request for documents and that we take our accountability in our roles, which is objective public service support to the minister, supporting his accountability relationship to the Legislature—we absolutely support that role, and we did mobilize to deliver on the motion, which we are continuing to do.

To your specific question, in my experience, I've never been in a role of supporting a ministry's or a secretariat's response to a motion like this, so I have no benchmark with which to assess it. It was a broad scope, but the ministry and the secretariat both mobilized in order to respond as effectively as we could. We secured the services of a partner ministry, the Ministry of Government Services and their IT support, to unvault—unlock—electronic records, which automatically vault after 30 days. We secured the services of an outside firm to assist us in ensuring that we didn't deliver just a deluge of unresponsive records; that search terms were applied and exclusion terms were applied, as appropriate, to ensure that we triaged down to a set of responsive records.

1650

We also endeavoured to assist the committee by providing two sets of records, one unredacted and sealed, and the other redacted to remove information that is traditionally protected through statutory or other privilege, so commercially sensitive information, personal information and information of that sort. So we undertook to provide a redacted set and an unredacted set.

We received, certainly, excellent co-operation from our colleagues, and were pleased to deliver the first instalment yesterday. Given the scope of the request, it simply wasn't possible to deliver it in its entirety, and our search efforts and production efforts are continuing.

I would say that it was really our early engagement with our IT colleagues at the Ministry of Government Services and the outside firm that assisted us in the keyword searching and redactions that really established kind of physical parameters for us in terms of the volume

we could physically process within the time allowed. So we have that knowledge now that we didn't have at the beginning, and that will govern our continuing work to comply.

Ms. Dipika Damerla: Thank you. At any given point, how many public servants were engaged in this particular endeavour to provide the first dump of documents? A head count: 10, 12, eight?

Mr. Steven Davidson: It varied throughout the process. We certainly had a core team. We had a full-time project manager on it, an individual from Nancy's team who did a fantastic job. So a core group of eight to 10, expanding out.

I should say that one of the steps in the process, when we received the documents back from the external firm in terms of identification and of responsive applying, through the keyword searches, we did do a quality control just to ensure, because we're the knowledgeable subject experts; they're not. We found a very limited margin of error, but it was an important piece to do.

When we were doing that work, it expanded out, and we did have a number of staff working on it up to—it's difficult for me to say, but maybe 30-odd. We had a core group throughout, but we expanded out when we needed to, to ensure that we were providing the highest-quality response that we could.

Ms. Dipika Damerla: Right. In addition to the eight core and the off-and-on 30 people in the OPS, there were 15 people in the minister's office also helping out, plus I understand you hired some lawyers to help you through this. Could you tell me how many lawyers you had to hire to do this?

Mr. Steven Davidson: We did secure the services of a firm, named Wortzman Nickle. They're a law firm that specializes in electronic document discovery. We secured their services, and they did deploy a team of 40 lawyers to assist us in doing this work. That was necessary in order to deliver as much as we could within the time that we could. So that work was undertaken.

Ms. Dipika Damerla: How many documents have you turned over so far?

Mr. Steven Davidson: I believe, included in yesterday's response, 21,000 responsive records, totalling approximately 76,000 pages.

Ms. Dipika Damerla: Approximately 76,000 pages? Now, is this duplication? Does that mean—I'm going to guess half is redacted and half is full. Is that how you come to 76,000, or is it 76,000 times two? That's what I'm trying to understand.

Mr. Steven Davidson: There were two complete sets.

Ms. Dipika Damerla: So 76,000 times two, right? In terms of the number of pages?

Mr. Steven Davidson: Yes. Just to be technically correct, the unredacted set would be 76,000 pages. The redactions, depending on the extent—I just have the minister's transmittal letter to the Clerk here. So just for example, say this was unresponsive, that would be redacted. For example, the entire next page was unredacted. There wouldn't be a blank page. There's a statement saying "Unresponsive content, redacted."

Ms. Dipika Damerla: So it's fewer pages.

Mr. Steven Davidson: It's more compressed, so I don't actually know, I'm sorry, what the volume—

Ms. Dipika Damerla: Yes, okay. So in total there were 76,000 pages given which were not redacted. Would that be correct? And this is just phase 1?

Mr. Steven Davidson: Yes, the first installment.

Ms. Dipika Damerla: And this involves—how many employees are the 76,000 pages related to?

Mr. Steven Davidson: As I said, we did learn through the process about just the physical constraint of what can be processed within a period of time. So the first installment does include responsive records, so the Outlook accounts, including emails, attachments, basically all documents of the most senior individuals in the organization. We began there because we could not deliver everything. So we looked for where the source of the most responsive records might be. So that is, in this instalment, the minister, the minister's chief of staff and the minister's Pan Am policy adviser, and then the current deputy—myself—and my three predecessors.

Ms. Dipika Damerla: About 10 people, or seven to 10?

Mr. Steven Davidson: Seven, I think.

Ms. Dipika Damerla: Seven people, and how many more do you figure you have to still go through to comply with the motion? You've done seven people.

Mr. Steven Davidson: Well, we have the entirety of the organization.

Ms. Dipika Damerla: So how many more people would that be?

Mr. Steven Davidson: Well, there are 58 FTEs—sorry, I can't provide a number, because we need to look at that.

Ms. Dipika Damerla: Yes, but it gives us a flavour of how much is left.

I just did a very quick math, Deputy. It takes usually about a minute for a person to read one letter-sized page, so 76,000 pages would take somebody reading every day, for eight hours a day, five months before you could get through just the first set of documents. That just gives us some idea of how much information has been given and how the motion had no scope. If only the motion had a narrower scope, as we had argued—because this just begins to give you an indication of the number of documents and what it would take for somebody. I mean, you've put in so much effort to do justice to that, so that the opposition actually reads it. It would take them five months reading it every day for eight hours. I just wanted to point that out. But I'm curious how much this cost us so far.

Mr. Steven Davidson: We haven't received the bill from the law firm at this point, so I can't provide a cost.

Ms. Dipika Damerla: All right. Okay. Thank you so much.

Just moving on to another topic, one of the things I've heard is that these games, and the record-keeping around them, have been the most transparent of all games when you compare it to other jurisdictions, including the

Olympics that took place in Vancouver. Could you just give us some idea about why this is the case?

Mr. Steven Davidson: As a public servant, I'm hesitant to answer a "why" question, but—

Ms. Dipika Damerla: Or what measures you have put into place.

Mr. Steven Davidson: What is in place? In this case, I think I would be comfortable saying that it's my understanding that there is a desire that these games be conducted in a transparent way. What are the tools that are in place to achieve that? One of the tools is the application of the Freedom of Information and Protection of Privacy Act to TO2015.

1700

I do understand that this is, if not unique, certainly unusual. I believe it's the first time that a government host jurisdiction has taken the step to apply freedom-of-information legislation to the games organizing committee. It wasn't the case in Vancouver. That was a step taken, and TO2015 is, through regulation, separately identified as its own institution. It has its own head of the institution, who is independently responsible for responding to FOI requests. That is a transparency mechanism that is in place—and requirements from the provincial government that TO2015 post quarterly its financial reports on its website and that it do that in as full and complete and regular a way as it can.

Just to come back to the expenses piece, there was a strong desire expressed on the part of the government and the minister that TO2015 really review what its practice is and where it wants to set the bar in terms of its compliance with the directive, so it has begun to post the expenses of the senior executives online. There is heightened transparency there that wasn't in place before.

Another piece is, there are a number of critical governing agreements that establish the governance of the games, and roles and responsibilities. One of the most critical is the multi-party agreement, which involves the provincial government, the municipalities, the federal government and TO2015. That and all the other foundation documents are on the Web. There have been efforts made to make as much fully available and transparent as possible.

Ms. Dipika Damerla: Thank you. My last question before I turn it over to my colleague is on the topic of transparency: Could you, one more time, just clarify for us—because my sense is, from the very beginning, we have said that the legacy costs are separate from the Pan Am budget. It's something that is borne out in MPP Rod Jackson's own press release, where he acknowledges that the Pan Am village costs are separate. Again, I have a transcript of a radio interview that MPP Jackson did on October 9 where he says, "No, the thing, though, is, it wasn't hidden. I've known for two years it wasn't hidden."

So it's quite clear that we were upfront from the very beginning, but since there seems to be some confusion among some members as to whether it was or wasn't hidden, perhaps you can just clarify that for us.

Mr. Steven Davidson: I'll share what I know. As I said, I've been in this position since July, so I can't speak

to communications, but what I do know is that it was articulated in the bid in 2009 that the cost of the village was separate and apart in the budget from the province's investment in TO2015's budget. Most recently, in the provincial 2013 budget, that was articulated again. So I do know those goal posts on either end.

Ms. Dipika Damerla: And I understand that the separation of legacy cost was also explained at the technical briefing. If people had attended it when invited, they would have been clear on that issue.

Mr. Steven Davidson: Yes, and when we refer to legacy costs, too, we can talk about the \$42-million celebration and legacy strategy which was announced in the summer. It was confirmed at the time of the announcement that it was outside the investment in the organizing committee's budget.

Ms. Dipika Damerla: Thank you so much.

The Chair (Mr. Grant Crack): Mr. Fraser.

Mr. John Fraser: Thank you very much, Mr. Chair, and thank you very much, Mr. Davidson and Ms. Mudrinic—I've got it right. Thanks for coming in.

Just one quick comment before we start. As I was looking to my colleague's questioning in regard to the document disclosure, the searches going on right now, it strikes me that, if you were auditing a firm, the approach that you might take would be more specific and targeted to look at those areas that are of the greatest concern so you could have the most immediate effect. I don't expect you to answer that; that's just a comment.

What I do want to ask you about it is, I want to understand the difference between the TO2015 budget and that of the host jurisdiction. That seems to be an area of some confusion that my colleague just mentioned as well. I just want to make sure that I understand why there's that distinction and what the distinction is.

Mr. Steven Davidson: Certainly. If you'll forgive me for referring back to this table; it's just that it's easier for me to talk from. The games organizing committee's budget is \$1.4 billion. That is the top box. You can see the total on the right-hand side. That comprises the \$500-million investment contribution from the province of Ontario, the \$500-million investment from the federal government, the \$73-million contribution from the city of Toronto, \$215 million from other municipalities, and then the games' revenue target, which is owned by TO2015, of \$153 million. This is substantially, but not entirely, to be achieved through sponsorships and also ticket sales, licensing agreements and so on. That makes up the \$1.4 billion. I think there has been confusion that the \$1.4-billion budget for TO2015 is actually a provincial responsibility. In fact, that's not the case. Our contribution to that is \$500 million, so just over a third. That's their budget, discrete and separate.

The bottom table there is the inventory of host jurisdiction responsibilities. When I was speaking, I was maybe rather clumsily breaking it into two sections, the ones at the top being substantially around legacy investments, overwhelmingly, the largest being the \$709-million investment in the Pan Am village; but also in

there in the middle, of course, is the secretariat, the challenge function, oversight and accountability, the \$49 million. The others are legacy investments that will be of value during the games, but also of lasting benefit afterward.

The ones down at the bottom, transportation and security, are the ones where planning is still under way, with a high degree of interdependence between the on-the-ground operational planning by TO2015. Those are proceeding, and these are current projection numbers, not final numbers. The total there, you'll see, is just over \$1 billion.

Mr. John Fraser: Yes; so in actual fact, when you take a look at the actual provincial investment in that—

The Chair (Mr. Grant Crack): Time is up, I apologize. You'll have another 10 minutes.

We'll move over to the Conservatives. Mr. Leone.

Mr. Rob Leone: Deputy, I notice there were a lot of questions asked from the members over there who just asked some questions regarding accountability and transparency and meeting the requests of the committee. I noticed you prefaced your remarks by suggesting that the Ontario public service is—maybe you didn't use the word "delighted," but it's part of your responsibility to help the minister provide and perform his or her accountability functions. Is that correct?

Mr. Steven Davidson: Yes.

Mr. Rob Leone: That task is an ongoing function of the Ontario public service, correct? You're always helping the minister answer whatever questions that need to be—

Mr. Steven Davidson: Absolutely.

Mr. Rob Leone: —and providing that information on an ongoing basis.

One of the things that I found very interesting in the line of questioning that I have heard from the members across the way is a seeming ignorance, I think, to your constitutional obligation to help the minister answer questions of a particular sort. I want you to spend a bit of time explaining, perhaps, what your role is in terms of informing the minister of exactly what's happening in the department. Could you spend a couple of minutes to outline that relationship, how you prepare the minister for questions that might happen, how you prepare the minister before he comes to a committee of the Legislature, and how he or she obtains the information necessary to answer questions when we ask those questions in the Legislature? Could you spend a couple of minutes talking about that?

1710

Mr. Steven Davidson: Sure, I'd be happy to. I think the principle that I would state first—and I know that you know this; I will just state it—is that the role of the public service is, of course, to provide the minister with objective, analyzed advice based on evidence, based on a knowledge of stakeholder interests, based on an understanding of financial implications, legal implications, communication sensitivities. It is absolutely not to give him advice of a partisan nature of any sort. So he re-

ceives that advice, which, I would say, complements the advice from his own political staff in his office. So the role that we play is to provide him with support and advice.

I'll use the example of a cabinet committee, and I'll use the example not of his own item, because that he'll be championing and driving, but let's say that there's an initiative of another ministry, where it may intersect or impact on his portfolio interests. It would be our job to provide him with a good, solid analysis of what the impacts and implications of that initiative would be from his portfolio perspective.

There may, in addition, be, of course, constituency interests and that sort of thing, and that would all be provided by his own staff.

Mr. Rob Leone: So in the process of developing our motion in the estimates committee to provide some documentation—I don't want to speak for Mr. Jackson, but I know my interest is certainly understanding more of that analysis of how we actually develop an understanding of how budgets are created. I'm assuming that your analyses, when you're creating and briefing the minister on various items, include financial analyses that develop budgets for particular items. Is that correct?

Mr. Steven Davidson: Generally, that would be correct.

Mr. Rob Leone: Generally?

Mr. Steven Davidson: Well, I'm not—the ministry has a budget. There's, of course, our estimates budget, and that's constructed through an annual process called results-based planning. It involves leadership from the financial CAO—chief administrative officer—function within the ministry, and involves all policy and program areas coming together and, ultimately, coming forward with a recommendation to the minister in terms of what we would recommend he take forward to the treasury board to recommend the ministry's budget. So that's writ large and most formal. On specific items that he and I might discuss at our weekly meeting, those may or may not touch on financial interests or financial implications. It would depend on the circumstance. That's what I meant by "generally."

Mr. Rob Leone: Okay. That's fair enough. I just wanted to make sure that that was clear, because, certainly, I expected the kinds of questions that we would be asking today would be to further understand what's going on with the Toronto Pan Am and Parapan Am Games. I wanted to make sure that everyone understood the function of your ministry, in terms of providing the information necessary to get things done.

Our simple request, although complex in terms of providing and being responsive to that request, is to have a further understanding of where we get the numbers. I think everybody would be in a better position if we had full knowledge of what was going on, and I don't think it's an unreasonable request to ask those sorts of questions.

Before I hand it over to Mr. Jackson, Deputy, I would like to ask a question about—I know you provided some

comparisons with other games. You've listed the Vancouver 2010 games, the London 2012 games and the Glasgow 2014 games. I'm assuming that might be the Commonwealth Games in Glasgow?

Mr. Steven Davidson: That's correct.

Mr. Rob Leone: Okay. When was the last time a Pan Am Games was exhibited—or how do you say that? Presented? Played?

Interjection.

Mr. Rob Leone: Held, thank you.

Mr. Steven Davidson: Held, yes. It was held in Guadalajara—when?

Interjection.

Mr. Steven Davidson: In 2011.

Mr. Rob Leone: In 2011. My question is: Why is that not part of the comparative analysis?

Mr. Steven Davidson: I'll let Nancy speak to that.

Ms. Nancy Mudrinic: We certainly searched for that information, but it was just not—

Mr. Rob Leone: It's in Spanish.

Ms. Nancy Mudrinic: No, I wouldn't say that. It wasn't available to us in a format that would be meaningful for comparisons. We tried to provide, in this chart, the most complete information that we could find and the things that were good comparables. It was difficult for us to understand the scope of their budget and who was responsible for what to provide those meaningful examples.

Mr. Rob Leone: Thank you.

The Chair (Mr. Grant Crack): Mr. Jackson.

Mr. Rod Jackson: How much time is left, Chair?

The Chair (Mr. Grant Crack): Two minutes.

Mr. Rod Jackson: Okay. It doesn't leave much time.

In your technical briefing this morning, you talked about—in fact, did quite a reasonable job, I think, of providing an answer to a question I've been asking for almost two years now: What is the total cost of the Pan Am Games to the taxpayer? There's one taxpayer. I think it's a fair question to ask, and I appreciate your efforts to do that. We do have a much better idea of what the real total cost is.

If I had asked you that question three or four months ago, would you have been able to give me the answer you gave in the technical briefing today?

Mr. Steven Davidson: It's a difficult question for me to answer because it's hypothetical. I would have just arrived. I would have been in the midst of briefings myself. So I'm going to give you a personal answer, which would be: I likely would not have had a comfort level, at that juncture, to—

Mr. Rod Jackson: Okay. Let me rephrase it in a more fair sort of way. Would the same information have been available a couple of months ago as was available in the past—I imagine—several days that you put the briefing together?

Mr. Steven Davidson: The information that is on—again, sorry. I apologize for going back to this table, but it is an inventory of the investments. The information about the host jurisdiction responsibilities was all publicly available at that time. As I understand, the Hamilton

stadium and Goldring centre: Those provincial investments, I believe, were announced in 2011. The games secretariat budget is in the ministry's estimates book, and the celebration and legacy strategy was announced in the summer.

What was not public at that time were the planning numbers for the other host jurisdiction responsibilities: transportation and security. These have moved over time. They've been higher; they've been lower. This is a point in time where they are right now. For something like that, it is always the purview of the government—as with the elements of the celebration and legacy strategy—to determine when it wants to make an announcement. It would not be my authority to do that. Hence, I haven't talked specifically today about the other elements of the legacy package that have not yet been announced.

So for these numbers, which are fluid still, it would not have been within my authority to have told you unless the government had made a decision that these were—because they could change, right?

Mr. Rod Jackson: Right.

The Chair (Mr. Grant Crack): Thank you very much. We'll move to the third party: Ms. Sattler.

Ms. Peggy Sattler: Thank you. I know that you said that your expertise is not on the security side. I did note that in this document, the highlights document, it does indicate that security guards will not be given police powers. Rather, they will be providing event security, similar to security guards you see at the Rogers Centre.

We do know that there was a regulation filed that effectively gives security guards the same powers as police. That's in place until 2016. If the security guards are going to be performing event security just like they would at the Rogers Centre, why was it necessary to put that regulation in place? Also, why is it in place until 2016? And I do understand if this is not something that you can answer right now.

1720

Mr. Steven Davidson: Yes, there's a technical answer to that question. I don't think I'm competent to give it to you, but certainly the individuals at MCSCS would be pleased to, I know. So if you would like, I can ensure that that happens.

Ms. Peggy Sattler: Okay. On another aspect, you had mentioned earlier in one of my questions about the other ministries involved—you mentioned MEDT and the number of B2B opportunities. Can you tell us a bit about the tendering process and how it's being administered in terms of these business opportunities that are available through this project?

Mr. Steven Davidson: Through the games themselves?

Ms. Peggy Sattler: Yes.

Mr. Steven Davidson: This is early, early days. There has been no tendering or procurement of any outside services at all, that I'm aware of, to support the B2B opportunities made available through the games. They are a participating partner and will be working with us to develop those opportunities and identify them. Some may

be in coordination with—I use the example of the tourism sector. One of my ministry's agencies, the Ontario Tourism Marketing Partnership Corp.—I mean, there may be partnership opportunities. We're at the two-year-out juncture, so it's still very early days in planning. So in answer to your question, there's nothing formal out there in terms of a procurement of a particular service against a particular activity. I believe that's right.

Ms. Peggy Sattler: As you go forward with some of these legacy projects, are there contingency plans in place if deadlines and completion dates are not met? Can you tell us a little bit about what contingency plans are there?

Mr. Steven Davidson: Certainly. Let's be clear: When we talk about the capital projects, there are the ones that I've identified as legacy investments by the province, so that's the athletes' village, the Hamilton stadium, the Goldring centre. But when we talk about contingencies against delivery, it may be helpful also to talk about the venue construction and refurbishment that Infrastructure Ontario is also delivering. Those, of course, are up in the top table, and those are under the responsibility of TO2015. So you've got two sets of capital projects.

What's common to both is that Infrastructure Ontario, as part of its model, includes contingencies within its budget for every single project. So there is a contingency individually allocated for each individual project. Each project right now is on time and on budget.

Mr. John Vanthof: Yes, mine is a very simple question, I think.

The Chair (Mr. Grant Crack): Mr. Vanthof.

Mr. John Vanthof: Thank you. The same chart you're always pointing at—it's a good chart, actually. Close to the bottom, we've got health at zero. At the end, it's zero. Is that just a misprint?

Mr. Steven Davidson: No, that's not a misprint, and that's a good point to flag. Health is there. I referred to them earlier as one of the partner ministries, consistent with the whole-of-government approach and the direction that we all look at ways that we can contribute. So there was, through the earlier stages in the planning process, a number there. It was anticipated that there might be a financial pressure against health services required to be delivered during the games. The Ministry of Health has now determined that it is able to offset those from within its base budget. So for full transparency, because we had been identifying that as a possible risk or pressure, we left it on, showing a zero. But that means it's zero as an incremental cost, to be absorbed and offset from within the Ministry of Health's core budget.

So, again, coming back to the transparency question, disclosure of that would be through the Ministry of Health's estimates, recognizing that this is a core government business and a whole-of-government approach to delivery. To the extent that any of us can make a contribution, whether it's value in kind or finding an offset from within by adjusting our delivery of services in that delivery year, that's what we're trying to do: deliver as cost-effectively and efficiently as we can.

Mr. John Vanthof: Further to that, in any contingency reserve there would be no reserve for a health care crisis during the games; that would be absorbed within the ministry's budget?

Mr. Steven Davidson: This is at the current point in time, in terms of planning. Again, I'm not an expert in health planning either, so I don't want to speak on behalf of my colleagues. But with information informing current planning assumptions, the answer is that there is no pressure for incremental costs, and that it can be accommodated within the Ministry of Health's budget. Obviously, the government is not going to expose citizens or visitors to any risk.

Mr. John Vanthof: I'm assuming that would also be based on experience at other large-scale events.

Mr. Steven Davidson: Yes.

Ms. Peggy Sattler: Do we have time?

The Chair (Mr. Grant Crack): Two and a half minutes, Ms. Sattler.

Ms. Peggy Sattler: Okay. I had another question, just to clarify—I've been taking copious notes as you've been speaking. In response to a question that was put by the official opposition, you mentioned a legacy fund that was announced two years ago—

Mr. Steven Davidson: No, two weeks ago.

Ms. Peggy Sattler: Yes, two weeks ago. That's what I've written down. It's to be managed by the Toronto Community Foundation. What is the value—how much is in that fund?

Mr. Steven Davidson: Seventy million dollars.

Ms. Peggy Sattler: Seventy million?

Mr. Steven Davidson: Back to the chart, if you look at the third line down on, it's a \$65-million contribution from the federal government and a \$5-million contribution from the provincial government.

Ms. Peggy Sattler: Okay. That's the post-games venue support?

Mr. Steven Davidson: Right, for the velodrome, the Pan Am aquatics centre at the University of Toronto Scarborough and the athletics centre at York University.

Ms. Peggy Sattler: And that was only just announced?

Mr. Steven Davidson: Sorry, I thought I had brought the release with me, but I didn't. It was not last week, but the end of the week before.

Ms. Peggy Sattler: So if we had gotten this tabled three weeks ago, there wouldn't have been a budget line for post-games venue support?

Mr. Steven Davidson: It certainly would have been there in terms of—absolutely, it would have been there. That's been a funded initiative throughout. Again, coming back to my comment that it is the purview of the government of the day to publicly announce at a time of its choosing, this was announced, and it was coordinated, obviously, with the federal government, too, and the Toronto Community Foundation. That was the public announcement date, but absolutely, it has been part of the \$1.4-billion budget of TO2015 right from the start. It's

one of the elements that is laid out in the multi-party agreement. It's one of those foundation pieces.

Ms. Peggy Sattler: Thank you.

The Chair (Mr. Grant Crack): Thank you very much. There are 27 seconds left.

Ms. Damerla.

Ms. Dipika Damerla: Thank you, Deputy, for being here for so long with us today. I want to begin by addressing something that MPP Leone brought up, which is the issue of a member's right to information from government and a bureaucrat's responsibility to provide this information. I actually happen to support him completely in that. The issue I was trying to bring to light is judgment in using that privilege and judgment in using that right to information. That's where I think there seems to be a lack of understanding.

The vastness of this motion—I'm just looking at it: 76,000 pages just for seven people, and another 40 people or so to go. Just the 76,000 pages is going to take somebody five months to read. What purpose is being served?

I recall MPP Leone once saying that as an MPP he had unfettered access to information, but I don't think we have the unfettered right to waste taxpayers' money.

That's my concern, and that's where I was going when I asked, in the last round of questioning, how much would this have cost, and you suggested that at this point, you don't have an estimate. But I hope that at some point in the future, you will be able to provide us with this information, because I think it is very, very important. I still do believe that the purpose of this committee would have been well served with a more focused motion and then, based on that, we could have asked for more information.

1730

There is some irony in the fact that we have you here, Deputy, for questioning; meanwhile, we have reams of paper that nobody has yet read. The 76,000 pages, which if perhaps the opposition would at some point end up reading, might make questioning you more meaningful. It's a little ironical that we are asking these questions without doing the homework, after asking for all of this information. So my plea to you would be that at some point, perhaps we can get some estimates of how much this endeavour would have cost the taxpayer in the end.

But, in the meantime, I just want to ask you a very, very quick question, which is going back to the idea that this is unprecedented, in the sense that so far the games have been on time and on budget in terms of delivery, and I just wanted you to speak a little bit about how we have managed to do that so well, because most games have a reputation of going way over budget.

Mr. Steven Davidson: Thank you very much for that question. The area that host jurisdictions are most often challenged by is the delivery of the capital infrastructure, the venues, and this is—and I'd say, you know, I wasn't there, but perhaps credit to my predecessors and others in making the decision that Infrastructure Ontario would be responsible for delivery of all major capital projects. I

believe it's over 80% of the venue projects are under the management of Infrastructure Ontario. Those that are below quite a small threshold—I forget what it is—are being directly managed by TO2015.

I'm sure you're all aware, and I don't want to sound inappropriately like a cheerleader, but I think one of the benefits to us, and to me in my position, is that the model that Infrastructure Ontario applies does give us more certainty than we would otherwise have around cost and delivery timelines. For the village, for example, there's a fixed-rate contract with the contractor—that's \$514 million—and that does ensure that if risks materialize, as they sometimes do in capital projects, we are not exposed, that the provincial government is not exposed. That is part of the negotiated agreement.

So by transferring risk to the private sector developers across all of these projects, and also by—I believe Infrastructure Ontario, back to the earlier question about contingency, it is very much part of their model that projects have a contingency allowing the accountability to rest with them for successful delivery. It's a model that has proved really successful in this case.

So, for the capital piece, I think we're in really, really strong shape, particularly in comparison to some other jurisdictions, where it's often—not often—when it goes badly, it is so conspicuous.

I would want to say, though, and I mentioned this at the beginning, that these games are complex. It's a large geographic footprint, and it involves multiple players, multiple municipalities, three orders of government, so in terms of operational delivery, there are risks that do need to be vigilantly managed. That's why my colleague Nancy and her team work hard every day to ensure that we're on top of those in real time and that there are strong mitigation strategies applied against them.

So we're in good shape. We're two years out, and I think we're well positioned.

Ms. Dipika Damerla: I did want to follow up on the question from the third party on security. My understanding is that the information they are presenting is incorrect, and I was hoping you could clarify. I was under the impression that the regulation change gave police the power to hire security guards to perform security work similar to what you would see at the Rogers Centre—and not give them police powers. I was also under the impres-

sion that these security guards would be licensed and trained. Would you be able to clarify this for me?

Mr. Steven Davidson: Again, I'm really hesitant to speak out of turn on this. I would encourage you to invite or speak directly to the experts on security planning. I apologize; I'm really hesitant to agree or disagree with either of you because I just don't know.

Ms. Dipika Damerla: Okay. Did you have any questions, John or Donna? All right then. Thank you so much. We're done.

Mr. Steven Davidson: Thank you.

The Chair (Mr. Grant Crack): Thank you very much. Madam Clerk, I believe that's—

Interjection.

The Chair (Mr. Grant Crack): Oh, point of order. Yes, Ms. Sattler.

Ms. Peggy Sattler: I just wanted to talk about the next meetings of the committee, on November 25 and November 27, related to auto insurance.

The Chair (Mr. Grant Crack): Okay. I don't think it would be necessary that we would request that the delegation continue.

On behalf of the Standing Committee on General Government, I'd like to thank the two of you very much for being here this afternoon and providing us with very detailed information.

Mr. Steven Davidson: Thank you very much. It's been a pleasure.

The Chair (Mr. Grant Crack): Okay, Ms. Sattler, we'll deal with your point of order concerning the 25th and 27th.

Ms. Peggy Sattler: We wanted to continue with the hearings on the 25th, but we would like to move to report writing on the 27th—so Monday, the hearings, and the report writing on the 27th, with a first draft of the summary of presentations also on the 27th, from the research officer.

The Chair (Mr. Grant Crack): Any other questions or comments concerning the issue that's been—

Ms. Dipika Damerla: We're fine with it.

The Chair (Mr. Grant Crack): So is there unanimous consent? Carried. It shall be done.

Any further business? If not, I believe there will be a vote in the House very shortly. This meeting is adjourned. Thank you very much, everyone.

The committee adjourned at 1737.

CONTENTS

Wednesday 20 November 2013

Pan/Parapan American Games review.....	G-363
Pan/Parapan American Games Secretariat.....	G-363
Mr. Steven Davidson	
Ms. Nancy Mudrinic	

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G-25



G-25

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Standing Committee on General Government

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Monday 25 November 2013

Lundi 25 novembre 2013

The committee met at 1404 in committee room 2.

AUTO INSURANCE REVIEW

The Vice-Chair (Mrs. Donna H. Cansfield): I'd like to call the meeting of the Standing Committee on General Government to order, please.

I'm going to ask you, if you would, committee members, to just add three items to your agenda. There's a motion that will come, there's a discussion about legislative research, and also some reporting discussion about next Wednesday.

To begin with, we have three deputants. Our first deputant is from the Insurance Bureau of Canada.

Mr. Jeff Yurek: I know I'm going to make a motion at the end, but seeing how we only have three witnesses, do you think we could have the committee agree upon adding 25 minutes per deputant if they wish to use it?

The Vice-Chair (Mrs. Donna H. Cansfield): We have 35 scheduled per deputant. If it's the will of the committee to have additional, it's up to the committee.

Mr. Jeff Yurek: Yes, 25 per, if they wish to take it up.

Interjection.

The Vice-Chair (Mrs. Donna H. Cansfield): I'm sorry. I couldn't hear—

Ms. Dipika Damerla: We do have some committee business that we want to do in terms of motions. As long as we can leave time for that, because this was already scheduled, as is, we don't mind extending a little bit, but not to the point they would crowd out other business.

The Vice-Chair (Mrs. Donna H. Cansfield): Mr. Singh?

Mr. Jagmeet Singh: My only concern is that I wouldn't want to increase the time for the deputation, but I'd be happy to increase the time for our questioning. I have no issue with that at all.

The Vice-Chair (Mrs. Donna H. Cansfield): So you'd be happy with—we have from 2 until 6. We have four hours. We're scheduled until 3:10. Add 35 minutes; that would take us to about 3:45. So we certainly have some time. Could we use our discretion and see if additional questions are required? We could ask each of the parties at that time if they have more questions they would like to add on beyond their 10 minutes allotted. Do you want to go for 15 minutes and try that?

Ms. Dipika Damerla: Sorry. We need to ask the deputants as well, because we've scheduled them in.

Now, if we're going to extend it by 15 minutes for each, I don't know how their timing and their scheduling is. I just wanted to throw that out, because they've come here based on certain time frames, and for us to now add extra time means they have to wait longer or—

The Vice-Chair (Mrs. Donna H. Cansfield): That's a fair question. It's up to the committee. Mr. Yurek?

Mr. Jeff Yurek: I appreciate their time and the fact they have come here, but there have been times at this committee where, due to what occurs outside of the committee's control, deputants didn't even have an opportunity to give their statements. So I'm thinking that 15 minutes extra is not going to really affect their scheduling.

The Vice-Chair (Mrs. Donna H. Cansfield): Okay. It would appear that we do have a difference in opinion. The committee has already made a decision around the time that they would allot, so, because there cannot seem to be agreement at this point, we'll just go with what has been scheduled.

Mr. Jagmeet Singh: Madam Chair, we did agree, I thought. Did we not—

The Vice-Chair (Mrs. Donna H. Cansfield): I'm sorry. I didn't take—

Mr. Steven Del Duca: The last point that I had said—sorry, Chair—was that I think 15 is a reasonable compromise that shouldn't affect too adversely most of the deputants on schedules. So I think—

The Vice-Chair (Mrs. Donna H. Cansfield): It will just affect the last one by half an hour.

Mr. Jagmeet Singh: I'm okay with that.

The Vice-Chair (Mrs. Donna H. Cansfield): Okay, as long as everybody is comfortable with that, that's fine. It's the decision of the committee?

Mr. Jagmeet Singh: And just on the questioning side.

The Vice-Chair (Mrs. Donna H. Cansfield): On the questioning side. So the deputants would each have five minutes, and then there would be 45 minutes for questioning. Is that correct?

Interjection.

The Vice-Chair (Mrs. Donna H. Cansfield): Fifteen minutes each, as opposed to 10 for each deputant. Everybody is in agreement?

Mr. Jagmeet Singh: Yes.

Ms. Dipika Damerla: Sure.

The Vice-Chair (Mrs. Donna H. Cansfield): Okay, then that's what we will do.

INSURANCE BUREAU OF CANADA

The Vice-Chair (Mrs. Donna H. Cansfield): Mr. Palumbo, would you like to introduce yourself and your guest for Hansard, please?

Mr. Ralph Palumbo: Ralph Palumbo, Ontario vice-president, Insurance Bureau of Canada. To my right is Barb Sulzenko-Laurie, vice-president, policy, from IBC.

Thank you, Madam Chair. This will be short. We did want to, at the outset, follow up with a discussion that took place at this committee in September relating to insurer profits.

In September, the Ontario Trial Lawyers Association as well as another individual testified on the issue of insurer profits. I think OTLA indicated that it was somewhere between 16% and 20%. I believe the other individual, Bill Andrus, testified that it was somewhere in the neighbourhood of 25%. In a follow-up, Mr. Singh, in the Legislature, told the House that it was this stunning testimony that it was 25%.

1410

I'm here to say that, frankly, the only thing stunning about it is that it was so wrong. Not only did the IBC offer two reports from two different actuaries on insurer profits that indicated that the ROE was nowhere near 25%, but at the hearing I understand that there was agreement that we all ought to wait, take a breath and wait until GISA reported on its insurer profits review.

GISA, which is the General Insurance Statistical Agency, which is a not-for-profit statistical agent that works on behalf of provincial insurance regulators, has now reported. They reported in October, and their report indicated that the ROE was 6.4%, and you have a copy of that report—nowhere near the 16% to 20% or 25% that was alleged here in September. And we're concerned about it.

We're not asking for your love here. We understand that the industry is not going to get a whole lot of love; we get that. But one thing this committee can do is be right. If you're going to issue a report, if you're going to rely on some of the submissions that have been made, you've got to be right, and so we're asking that you deal with the facts, and the facts are other than what the trial lawyers and Mr. Andrus alleged. I'd ask you to look at that report, the GISA report, and come to your own conclusions, and I'm satisfied that you'll agree that those numbers were just wildly off base.

The second issue we want to deal with is fraud. I know that we've talked an awful lot about fraud, publicly and even at this committee. I just want to assure the committee that the industry is aggressively taking on the fraud issue. As a matter of fact, nine companies, making up 70% of the Ontario insurance market, formed a company called CANATICS, the Canadian National Insurance Crime Services, and it's a not-for-profit organization that will pool claims data and will use sophisticated analytics to identify suspicious claims, and when they identify those claims early, then a company can focus its investigative resources and catch fraudsters before they make a

payment. Of course, obviously, that will help in terms of costs, and it will certainly help in terms of premiums.

More than that, individual companies are employing their investigative units vigorously. They've invested in predictive analytics and they've launched civil actions against health clinics and others that have been involved in fraudulent schemes, and I'm sure you may have seen some of those stories in the newspaper.

Moreover, the government requires, each year, that the senior officer of every company must attest that controls are in place to address fraud and abusive—not only that they're in place but they're, in fact, effective. Those are reviewed regularly, and they ensure that legitimate claims are treated fairly. Frankly, FSCO conducts on-site examinations to confirm compliance with the attestations made by senior officers.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much for your presentation. We're going to start with Mr. Singh and the New Democratic Party for 15 minutes.

Mr. Jagmeet Singh: Thank you very much.

Good afternoon. I'm going to begin with some questions around territories and collateral benefits policies. First of all, are you in a position to speak to the territorial boundaries that insurance companies set? Do you have some knowledge of that, and would you be able to speak to that series of questions?

Ms. Barb Sulzenko-Laurie: We don't have any expertise in the territorial pricing.

Mr. Jagmeet Singh: Okay. Understanding the limitation of your knowledge, we'll take that into consideration. I'll ask you a couple of questions and see where you can go with them.

As far as you know, insurance companies get to set their own territorial boundaries; is that correct? Do the insurance companies get to set their own boundaries?

Ms. Barb Sulzenko-Laurie: As far as I understand it, they have to justify it to FSCO, okay, that—

Mr. Jagmeet Singh: Just because we are in a limited time, the question is: Do the insurance companies themselves set it? Then approval can be the second question, but do the insurance companies set their boundaries?

Mr. Ralph Palumbo: Excuse me, Madam Chair: If we're going to be asked a question, we should be able to answer it. I understand the time limitations, but let's let the witness answer it.

The Vice-Chair (Mrs. Donna H. Cansfield): I agree.

Ms. Barb Sulzenko-Laurie: As I understand it, insurance companies do an actuarial analysis and, on the basis of the actuarial analysis, identify a pool. Then they propose that pool, which is the territory, to FSCO. FSCO examines it, may approve it or may not, and may in fact order that it be changed.

Mr. Jagmeet Singh: If I can just decipher your answer, the insurance companies set it and then FSCO approves it?

Ms. Barb Sulzenko-Laurie: That's not what I said. I said exactly what I said.

Mr. Jagmeet Singh: Okay. And there are no limits to how big the differential rates are between two adjacent territories, as far as you're aware? There's a 10% difference if you split a territory, but if you keep the territory the same, over the years there can be a huge difference between one territory and the next. There's actually no limitation on how big that territory spread can be, as long as you're not splitting one territory.

Ms. Barb Sulzenko-Laurie: I believe that goes beyond my level of expertise.

Mr. Jagmeet Singh: Okay. I'm going to ask you some questions about—and if you're unable to answer, I appreciate that. That's good. We can move along quickly, then.

Collateral benefits rules: I'm going to ask you a question around the collateral benefits. In the context of auto insurance, the rule means that, "Auto insurers are liable to pay accident benefits (the no-fault benefits available to all accident victims) only after all other insurance plans or programs available to the insured have been exhausted. In this respect, therefore, auto insurance is a second payer."

I can repeat that statement, if you'd like, but do you follow the gist of the question?

Ms. Barb Sulzenko-Laurie: I do, and I think that it's largely correct, but insofar as another insurance program, which could be the publicly funded health program, provides funding for that service, that has to be exhausted.

Mr. Jagmeet Singh: So to put it in another term, if, for example, a particular individual has other forms of coverage beyond auto insurance coverage, those other forms of coverage would be exhausted first before the auto insurance coverage is then tapped into?

Ms. Barb Sulzenko-Laurie: If I can use an example: If, for example, through a private insurance program or an employee insurance program, an individual has access to \$500 in massage therapy, that needs to be exhausted prior to the use of auto insurance funds for further massage therapy.

Mr. Jagmeet Singh: Okay. So in other words, if someone has private insurance above and beyond their auto insurance, that person would cost the auto insurance company far less, for example, than someone who does not have additional private insurance coverage.

Ms. Barb Sulzenko-Laurie: The purpose of that policy, which exists in most provinces in Canada—I believe, all provinces in Canada—is to try to keep auto insurance prices as low as possible and also to ensure that people are not double-dipping with respect to the care that they're receiving.

Mr. Jagmeet Singh: Certainly. But you would agree, then, based on that policy, that if someone has private insurance above and beyond their auto insurance, that individual would cost the auto insurer less than someone who does not have the additional coverage through another form of private insurance.

Ms. Barb Sulzenko-Laurie: If it hasn't been exhausted, yes.

Mr. Jagmeet Singh: Okay. On the flip side, if an individual has no health benefits and no other private form of insurance, then that individual's auto insurance policy would pay the first dollar and anything that's not covered by OHIP?

Ms. Barb Sulzenko-Laurie: Yes, that's correct.

Mr. Jagmeet Singh: Okay. Then isn't it likely, given that, that in the GTA there will be certain regions, certain areas, certain territories where there's a higher proportion of folks, or people, who don't have private insurance, and there's a higher proportion in other areas where they do have private insurance?

Ms. Barb Sulzenko-Laurie: That's probably true. I don't believe, however, that pricing is done on the basis of the amount of the claim but, rather, the frequency of the claim. In that respect, there are going to be a lot of differences amongst regions as well, as to the frequency of the claims.

Mr. Jagmeet Singh: In either respect, if there are areas where there's a higher proportion of folks who have private insurance, and there are other areas where there's a higher proportion of folks who do not have that, the claims costs will be different, not based on the frequencies and not based on the severity of the accident itself, but based on the fact that some folks have access to other forms of coverage and some folks don't.

Ms. Barb Sulzenko-Laurie: I don't believe the pricing is done on that basis. It is, in fact, done largely on the basis of the frequency of claims.

Mr. Jagmeet Singh: But in terms of not on the pricing but the actual cost, you would agree with me, then, based on this line of argument, that in a region that has a higher proportion of folks who have private insurance coverage above and beyond their auto insurance coverage—in those areas, the claims costs would then be proportionately lower, and in areas where they don't have private insurance, the claims cost itself would be lower?

1420

Ms. Barb Sulzenko-Laurie: I'm not trying to play games at all, but claims costs are a combination of frequency and the severity of the claim. I believe that the frequency is the major factor that's involved, and also whether the insured person was at fault or not at fault.

Mr. Jagmeet Singh: Sure. That's very fair to talk about frequency. But if we put frequency aside and just ask the question based on the direct cost of a claim, the direct cost of a claim would be different not because the claim costs more or less in terms of what the person is claiming for, but it would cost more or less based on if they had additional coverage as well; that would also be an impact on the cost of that one individual claim. If we put that over a number of people, that would also have an impact in terms of certain areas costing more and certain areas costing less to the insurer.

Ms. Barb Sulzenko-Laurie: I think that the point you're trying to make is that by virtue of the fact that in some areas, people may have fewer other benefits, as a result of that, the auto insurance prices would be higher

because the severity of the claims would be higher. I don't believe that's the case.

Mr. Jagmeet Singh: I'm not making that claim yet, but what I'm saying is that the costs would certainly be different; that if you have an area where a lot of folks have additional coverage, that individual who makes a claim—his or her claim would be lower. In another area where they don't have the coverage, their claim would be higher.

Ms. Barb Sulzenko-Laurie: As long as the frequency is the same in both areas.

Mr. Jagmeet Singh: Okay. I'm going to ask you a question regarding frequency and high-cost territories. Average auto insurance claims from territories which have a higher proportion of policy-holders without workplace and other health benefits would be higher when they are hurt, the reason being because the auto insurance policy would be the first to pay on the policy.

Ms. Barb Sulzenko-Laurie: I think that, when you're talking about an individual, yes, that's true.

Mr. Jagmeet Singh: What are the implications for folks in these higher-cost territories, if, going along with this argument that certain areas cost more because the individual has less coverage, taking out the idea of frequency—what are the implications for people who never make a claim? So 80% of policyholders don't make a claim—that's the provincial average—and they're paying far higher premiums than those living perhaps a kilometre or two away because of where they live, but they don't cost the insurance industry a penny and they don't make a claim. What do you think the implications are for those 80% of people who never make a claim?

Ms. Barb Sulzenko-Laurie: I believe that an auto insurer is going to be a witness at this committee after us, and they have expertise in that area. I don't want to mislead you—

Mr. Jagmeet Singh: That's fair.

Ms. Barb Sulzenko-Laurie: —so I think you should—

Mr. Jagmeet Singh: I appreciate that.

I just want to double-check my time. How much time do I have left?

The Vice-Chair (Mrs. Donna H. Cansfield): You have another six minutes.

Mr. Jagmeet Singh: Thank you very much.

I'm going to ask you some questions regarding the GISA-versus-OSFI debate that we've been a part of. In the GISA 2012 report on Ontario private passenger loss ratios and other 2012 statistics, they say that the claims and adjustments incurred were \$6.483 billion. The report you've referred to—it's in the totals column; the 2012 column following the net claims and adjustment expenses for 2012, Ontario—says \$7.744 billion. Are you able to explain the difference between the two?

Ms. Barb Sulzenko-Laurie: What exactly is the question here?

Mr. Jagmeet Singh: On the GISA financial information report, private passenger automobile, Ontario, 2012, in the net claims and adjustment expenses—

Mr. Jeff Yurek: Chair, could we get a copy of this?

Mr. Jagmeet Singh: I think this is referred to—

The Vice-Chair (Mrs. Donna H. Cansfield): It's in your package that's on your desk. It's page 14.

Mr. Jagmeet Singh: Thank you. I should have said that. It would have been easier—page 14. We're looking at the net claims and adjustment expenses. If you follow that along, there's a total. There's a total amount dollar figure and there's also a ratio. The total amount is \$7.744 billion—I think it should be \$7.745 billion, if you round it.

Ms. Barb Sulzenko-Laurie: It's \$7.7 billion, yes.

Mr. Jagmeet Singh: That's right; \$7.7 billion is good enough. If we compare that to the Ontario private passenger loss ratios, there is a figure of \$6.483 billion. That's on the PPV-IR Ontario, and it's on page 28.

Ms. Barb Sulzenko-Laurie: What are you referring to here?

Mr. Jagmeet Singh: For 2012, "Claim and adjustment expenses incurred," that number says \$6.48 billion, about a billion dollars—

Ms. Barb Sulzenko-Laurie: Are you referring to another report?

The Vice-Chair (Mrs. Donna H. Cansfield): Mr. Singh, that's another document; is that correct? Just so we know, because not everyone has the other document—

Mr. Jagmeet Singh: Sorry. Yes, it is—

The Vice-Chair (Mrs. Donna H. Cansfield): It's a different document.

Mr. Jagmeet Singh: It is a different document. My apologies.

In fairness to committee members, is there a pause button we can press so I can make sure that we give a copy of this to everybody, so that everyone can follow along?

The Vice-Chair (Mrs. Donna H. Cansfield): We can put a pause button. We can have that copied so people can have an opportunity to review the same that you're reviewing.

Mr. Jagmeet Singh: Sure, if we can take a five-minute recess.

Interjection.

The Vice-Chair (Mrs. Donna H. Cansfield): Yes, we're on pause.

Mr. Jagmeet Singh: Is a five-minute recess okay with the committee?

Interjections.

The Vice-Chair (Mrs. Donna H. Cansfield): Five is fine.

The committee recessed from 1426 to 1432.

The Vice-Chair (Mrs. Donna H. Cansfield): We'll call the meeting back to order. Mr. Singh, you have three minutes left.

Mr. Jagmeet Singh: What I'm going to ask you to do is compare. There's a report on profit that was released; that's the \$7.7-billion number; and then there's a regular report that GISA releases annually, and in that they say

\$6.5 billion. That's page 28, 2012, "Claim and adjustment expenses incurred."

Ms. Barb Sulzenko-Laurie: We were not given a copy of the report that was just handed out to the members of the committee, so I'm not in a position to—

Mr. Jagmeet Singh: That's quite inconvenient.

Ms. Barb Sulzenko-Laurie: Yes.

Interjections.

The Vice-Chair (Mrs. Donna H. Cansfield): I'm sorry, but I couldn't hear. We need to remember to be respectful when someone is answering a question. Thank you.

Mr. Jagmeet Singh: They just indicated, about the question I was asking about the report, that just we have a copy, that they don't actually have a copy of it.

Now they do. The GISA number that's released annually—I'm sure you're very familiar with it. They released \$6.5 billion—I'm rounding; it's \$6.48 billion. The number that is in the profit report is \$7.7 billion. So I'm going to take you through the differences and you can respond if you understand, if you agree, in the affirmative or the negative. I'm going to walk you through this.

The difference between these two numbers leads to a loss ratio of 62%, if you use the GISA claims data, versus 76%, if you use the OSFI claims data. If you look at the two—

Ms. Barb Sulzenko-Laurie: They're both GISA.

Mr. Jagmeet Singh: They're both GISA, but in the 2012 profit report, where they use the \$7.7 billion, they're using OSFI numbers, and in the regular annual reporting they're using the normal in which GISA analyzes the profit, and they have it at \$6.48 billion.

Ms. Barb Sulzenko-Laurie: I think you're mistaken, because my understanding of the GISA report—and it is a superficial understanding of the way in which it was conducted, but I do believe that GISA actually asked the insurance companies to report the data. I'm not aware that they asked them to use OSFI data in reporting it. So the GISA profit report was entirely designed by GISA, with the companies responding to it.

Mr. Jagmeet Singh: Sure. So either way we have the GISA annual report, which indicates the \$6.48-billion number, and this, which reports \$7.7 billion. If you look at it and analyze it, you actually get a 62% loss ratio versus a 76% loss ratio, if you use those two different numbers and calculate it. Using the two different sets of numbers—both are GISA's, just different ways of accounting—one gives you a 7% net income and the other gives you something closer to 15%. If you use the same GISA number in the same year—2012—"Claim and adjustment expenses incurred." The same thing over here: "Net claims and adjustment expenses." Those two exact same columns: different numbers. In one, you're getting a net income of 7%. In the other, you'll get 15%, using the exact same numbers. I'm just showing this one report by one organization and another report by this same organization.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much. We now go to the Liberals: Ms. Damerla.

Ms. Dipika Damerla: Thank you, Chair. I'd like to begin by thanking you for coming.

Ms. Barb Sulzenko-Laurie: Thank you.

Ms. Dipika Damerla: I'm just going to start by asking, can you talk to us a little bit about the effect the 2010 reforms on the auto insurance industry have had on your industry?

Do you want me to repeat that? Did you get the question, or—

Ms. Barb Sulzenko-Laurie: I can certainly attempt the beginning of the answer, and I think that Ralph may want to follow up. It was something we were very pleased with—the 2010 reforms—which focused on the SABS, the statutory accident benefits schedule, and particularly on certain provisions within the SABS for benefits that had been a source of runaway costs prior to the implementation of the reforms. We were quite pleased to see that the cost of SABS reforms appeared to fall significantly in the aftermath of the 2010 reforms—very pleased to see that.

On the other hand, I have to say that we were very disappointed to see that so many of those claims that appeared to fall in cost then went into dispute resolution. That's why we saw this huge buildup of waiting lists in dispute resolution. First, in mediation, and now that an effort has been made to clear some of those out of mediation, we have a buildup of cases before arbitration.

So what it really means to insurers is that although there's a paper savings as a result of the 2010 reforms, we have no idea whether there are any savings at all. In fact, any savings that we might have realized on paper since 2010 could retroactively be wiped out and we could find ourselves in the same situation, plus the need for retroactive payments, depending upon what happens when those claims are finally resolved.

I noticed that in Justice Cunningham's recent report on the ADR system, he said that only just now is the ADR system starting to deal with issues arising from the 2010 reforms. He makes the same case: that you have no idea what the ultimate savings or not are going to be from the 2010 reforms.

Mr. Ralph Palumbo: If I might, but in the short term, those reforms were meant to stabilize rates, which they have done. The first three quarters, for example, of this year, rates haven't gone up; they've gone down. Now, by small amounts, but, in fact, they have stabilized, and those reforms left a lot of work to be done, and the government's dealing with that.

On the fraud side, for example, we have the anti-fraud task force report. The government's now looking at the licensing of clinics, and those regulations are being prepared. The government hasn't dealt with the catastrophic impairment definition, but that's still out there. So there are things left to be done. It wasn't intended that just those reforms, in and of themselves, would produce huge, huge rate decreases. And, of course, they haven't, but they've at least stabilized.

Ms. Dipika Damerla: Thank you so much for that, Ralph. I understand the situation, because the \$3,500 cap was supposed to control costs, but what you are saying is, a lot of those small claims have actually moved on to disputes and so you're concerned about the contingent cost that might come out. Is that what you're referring to when you say that your profits, or the savings, have been wiped out? Is it the contingency costs that you're referring to?

Mr. Ralph Palumbo: Well, they could be. There was a decision earlier this year on the minor injury definition that I guess I could say could potentially add anywhere between \$200 million and \$300 million in costs that was not anticipated, because who knows how an arbitrator or how the court is going to interpret a provision. Those are the sorts of things that have happened, that can happen, and so it's very difficult to say just how much savings there will be.

Ms. Dipika Damerla: Well, thank you for that. As you know, the government is committed to looking at cleaning up the dispute resolution system, and we look forward to working with you on that.

Just moving on to something else: I was wondering if you could just explain to us what the current return on equity looks like in the auto insurance industry?

Ms. Barb Sulzenko-Laurie: For auto insurance in Ontario, the return on equity is as reported by GISA of 6.4%, and I have here a comparison of auto insurance in Ontario versus some other industries for the same time period. We're looking at utilities, and it's 7.8%; manufacturing, 8.5%; banking, 6.6%; and construction, 19.7% in the same period. So it's quite clear that auto insurance in Ontario was very much below par. Certainly also—

Mr. Jeff Yurek: Excuse me, Chair. Do we have copy of that chart you're referring to?

Ms. Barb Sulzenko-Laurie: No. It was just my notes, but I can give it to the—

Mr. Jeff Yurek: You're referring to it, and I wouldn't mind a copy. Could we get a copy of that?

The Vice-Chair (Mrs. Donna H. Cansfield): Is it possible to get a copy for everyone?

Ms. Barb Sulzenko-Laurie: Absolutely, no problem.

The Vice-Chair (Mrs. Donna H. Cansfield): We'll take a few minutes' recess.

The committee recessed from 1442 to 1446.

The Vice-Chair (Mrs. Donna H. Cansfield): We'll call the meeting back to order.

Ms. Damerla, I'd just remind you that you have nine minutes left.

Ms. Dipika Damerla: Thank you. Please continue.

Ms. Barb Sulzenko-Laurie: I was just citing the return on equity in some other industries in 2012. I thought I would just add to that, as we just have the brand new figures from the third quarter for the industry as a whole, across Canada, from OSFI, again showing that ROE for the industry as a whole is 4.9%, down from 9% a year ago. Obviously, the industry is going through a tough time, shall we say.

Ms. Dipika Damerla: Okay. As you're probably aware, the government has moved on quite a few initiatives to bring down the cost side, to manage the cost side, in the insurance industry. That includes moving forward with licensing the health clinics, which we hope should happen sometime in the spring of 2014. We've laid about 164 fraud charges already and hope to continue to work on that, working on the dispute resolution system, as you earlier mentioned.

Given that we're moving forward on all of these, are there any other issues that you want to raise that might be contributing to the challenge in reducing auto insurance rates, from your perspective?

Ms. Barb Sulzenko-Laurie: First of all, we really appreciate the measures that the government has moved on. We think that over the long term, they're going to have very positive effects in terms of righting some of the things that are wrong with the auto insurance system in Ontario.

We don't expect to see those savings emerge in the near term. They're part of rebuilding a system that took 25 years to get into the kind of problems that it's facing now. It's going to take some time to put back the system so that it's better functioning for drivers as well as for insurers and the general public.

We are very concerned, however, at the present time—and again, Justice Cunningham's report speaks about this—that there are provisions in the SABS, some of which are in the reforms that were introduced in 2010, which are not clear insofar as what their intention is, what the policy intention was. Our concern is that if those are not addressed—you know, things like what an incurred expense is and what a pre-existing condition is—if those problems are not addressed, then we are very much at risk of seeing an undoing of some of the savings that have been achieved, and also new pressures.

We also see, on the bodily injury tort side, very substantial increases having occurred over the last few years in terms of the costs of claims. Since 2008, I think it's something like \$750 million in increased costs on the tort side. The problems on the tort side were what got us into a largely no-fault system back in 1989.

Our view is that because this is a partnership between consumers, the industry and the government—which defines the product in legislation and regulation—you've got to be watchful at all times. As the problems are arising, problems have to be addressed as they occur.

Ms. Dipika Damerla: I know that we're all working towards lowering auto insurance rates, but they do continue to be higher than other provinces'. Could you speak to, based on the best of your knowledge, how fraud in Ontario compares with fraud in other provinces?

Mr. Ralph Palumbo: I'm not sure that I could give you an exact number, but here, as you probably recall, KPMG conducted a review that estimated fraud on an annual basis to be somewhere in the neighbourhood of \$1.6 billion. It's nowhere near that in other jurisdictions in Canada, although we do understand that there are some pockets in Alberta where it's starting to be an issue.

But this is the mother lode here; this is where the problem is, in particular in the GTA.

Ms. Barb Sulzenko-Laurie: I think the reason for that is that we have the most generous auto insurance product in the country, and have had for many, many years. It serves as a magnet for fraudsters to try to take advantage of the system. It's also very complex—hugely complex. With all the rules that are there, there are multiplying ways of getting around the rules. But I think it's largely the fact that in this jurisdiction the generosity of the auto insurance product has really served as a magnet for fraud, and we see that when we look south of the border as well, in those jurisdictions where the auto insurance product is richer in terms of the benefits that it offers. That's where they have bigger fraud problems.

Ms. Dipika Damerla: That's a fair statement, because that is sometimes lost in the conversation where people only talk about the premiums in Ontario. But to compare apples to apples, you also need to compare the benefits that you're entitled to in Ontario, compared to other provinces. So that's a good point.

Could you just talk a little about what your organization is doing to help constituents like mine access lower auto insurance?

Ms. Barb Sulzenko-Laurie: Ralph just talked about the formation of a new company, CANATICS, which is going to be able to identify fraud using big data analysis and data analytics. Certainly, that's been very significantly supported by IBC as part of a system-wide effort to try to reduce the source of cost pressure that comes from fraud.

Mr. Ralph Palumbo: The other area, of course, is innovative products that will hopefully be in the market, and particularly those that look specifically at driver behaviour, so that if the concern is that—insurance is about risk. It's about a pooled risk, and people will forget that sometimes. Even if that person hasn't made a claim, they're part of a pool where the risks are greater, perhaps, than in another area, and that contributes to the higher premiums. But there are products out there that will look more specifically at the individual driver and that hopefully will mitigate some of the effects of that whole idea of a pooled risk. I know that insurers are very much looking at being as innovative as possible. What we hope, however, is that the regulator, FSCO, will allow that to happen, because sometimes that doesn't happen.

Ms. Barb Sulzenko-Laurie: If we look back over the years, we've been the initiators and instigators of seat belt legislation and graduated licensing. The distracted driver campaign originated with IBC and has now been adopted by most governments across the country. We're certainly very heavily invested in trying to improve the safety of the roads and of drivers, so as to reduce the cost of auto insurance.

Ms. Dipika Damerla: How much time do I have, Chair?

The Vice-Chair (Mrs. Donna H. Cansfield): A minute and a half.

Ms. Dipika Damerla: I just wanted to very quickly touch on something that comes up, which is the rate of return that's mandated for you. Would lowering that have any impact on insurance rates?

Ms. Barb Sulzenko-Laurie: The rate of return has just been reviewed by FSCO, and they adjusted it downwards to 11%. It's a benchmark. It's not a guaranteed rate of return. There are very few insurers who are making 11% on their auto insurance business here in Ontario today. As I say, it is a target. The ability to achieve that target is very questionable. If we were to lower the benchmark rate, we would be sending a signal to the markets that have to capitalize insurance. You can never make more than a certain percentage on the money that you invest in insurance and supporting insurance without capital to back insurance policies. We can't sell insurance; we're not allowed to sell insurance.

Our view is that it would lead to a contraction in the market because of a shortage of capital, and ultimately that would reduce competition and produce higher prices.

Ms. Dipika Damerla: I take your point on it, but I did want to leave one last thought. The last time I checked, I believe in Manitoba their return on equity is around 7%. So I'm just wondering how that plays out, but we can talk about that later because I don't have the amount of time—

Ms. Barb Sulzenko-Laurie: Well, the fact that they get their capital from the government instead from the securities markets makes a big difference.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much. Now Mr. Yurek.

Mr. Jeff Yurek: Thank you for coming out to speak to us, I think for the 10th or 12th time over the two years we've started this review at this committee.

I've been a proponent for OSFI data since the start, and we'll leave that at what that is, but recently GISA came out with a new report. You mentioned it earlier in your statement. It gave you a return on equity of around 6.4%. Could you elaborate on the GISA report a little further than what you had and maybe touch on the 6.4%?

Ms. Barb Sulzenko-Laurie: Our understanding is that GISA designed the report and called upon the industry to supply data in response to a survey that they designed. GISA undertook the responsibility for the analysis of the data, and the provincial regulators across the country approved the analysis and approved the report before it was issued.

Mr. Jeff Yurek: Okay. What has been said at this committee previously—the third party has mentioned that the industry is making \$2 billion since the 2010 reforms. Seeing how the insurance business is a \$10-billion market, and they're saying you're making \$2 billion extra since 2010 and GISA is saying your return on equity is 6.4%, can you make sense of these different numbers that are being thrown out?

Ms. Barb Sulzenko-Laurie: You're talking about the \$2-billion reduction in costs for AB?

Mr. Jeff Yurek: Yes.

Ms. Barb Sulzenko-Laurie: There are several factors that need to be taken into account. One is that, prior to the introduction of those reforms, in the previous year the industry lost \$1.7 billion or \$1.8 billion—a very substantial reduction in AB costs, and it was largely—not entirely, but largely—as a result of the high cost of AB benefits. So a very substantial portion of the savings, if not all of the savings, were necessary just to stabilize the AB cost pressures. That's the biggest part of the explanation.

The second part of the explanation is along the lines of what I've discussed in terms of the uncertainty that's faced by the stability of the reforms—whether they're going to hold. Also, during the same period, here in Ontario and across the country we've seen a very substantial push in costs on the BI side.

Mr. Jeff Yurek: It seems to me that the 15% reduction put forth by the NDP was based on their calculation of \$2 billion in cost savings to the insurance company.

1500

Ms. Barb Sulzenko-Laurie: Yes, and that would assume that it was okay that we were losing \$1.8 billion the year before.

Mr. Jeff Yurek: Okay. Yes, just going further with that, would you say that making a huge decision based on the \$2-billion cost to actually reduce rates 15% when there are possibly other avenues to go to to achieve that rate reduction—do you think that was kind of a risky venture for the third party to propose based on the \$2 billion?

Ms. Barb Sulzenko-Laurie: We believe that it is a very risky venture all by itself. Now, having said that, we also agree that the price of auto insurance is way too high in Ontario, okay? We absolutely want to see the price of auto insurance in Ontario fall so that it's more comparable to the kinds of costs that are being incurred by drivers across the country. But in order for that to happen, there are some additional cost savings that have to be made.

We want those to be made. We want the system to be tightened up because it's, in our view, unacceptable that Ontarians are paying 5.5% of their disposable income on auto insurance whereas in some of the other provinces, it's more like 2% or 3%. So absolutely, we want those prices to come down, and the only way prices can come down is for costs to come down and costs to be stabilized.

Mr. Ralph Palumbo: And, Mr. Yurek, if I might, the other issue, and I think Barb touched on this, is that GISA looks at accident year. It changes from year to year because, of course, actuaries make projections. Sometimes they're right; sometimes they're not.

One thing that we can't ever be sure of is what the costs are going to be with any particular file because, as we said, the file could be in mediation or arbitration and you just don't know what the final costs are. To base a policy of a 15% cut on GISA numbers just is not smart policy, frankly.

Mr. Jeff Yurek: I just want to quickly hop over to fraud for a minute because I found it interesting that you made mention of CANATICS being formed to pool data and go after fraud. How much does that cost in the industry that you in fact had to go and form your own company to go after fraud?

Ms. Barb Sulzenko-Laurie: I don't have a number. I have to say that I was talking to a member of the board of CANATICS who is a senior official with one of the insurance companies, and she says it's costing us a lot of money.

I think there's no question that fraud is very expensive to the industry and to consumers from the standpoint of it loading in the cost of claims. But it's also very expensive to fight. There are investigations that have to be done in order to identify fraudulent situations, and then evidence has to be accumulated in order to be able to be handed over to the police so that they can actually successfully do a prosecution. That doesn't come cheaply.

Mr. Ralph Palumbo: We know one company, for example, that has well over 35 employees directly focused on suspicious claims, and we know of another company that moved, again, an awful lot of resources into their investigative services division. It's an expensive proposition.

CANATICS is a separate corporation, so we don't really know what the numbers are, but it's expensive, as you can imagine.

Mr. Jeff Yurek: Are they using the HCAI system to collect the data or are they just pooling data they've collected on their own?

Ms. Barb Sulzenko-Laurie: It's data that's coming from the industry; it's not HCAI.

Mr. Jeff Yurek: It's not?

Ms. Barb Sulzenko-Laurie: It's not, no.

Mr. Jeff Yurek: Would HCAI be a role that could actually do this role, maybe filtering it through FSCO instead of making the insurance companies create a whole new entity?

Ms. Barb Sulzenko-Laurie: I'm sure that HCAI can contribute; I can just say from my previous experience in working with HCAI. But HCAI is mainly a system for processing claims and claims documentation. It has a limited role. I believe that the large amounts of data that are required for the CANATICS operation cannot come from HCAI but have to be specifically designed to come for the purposes of the CANATICS operation.

Mr. Ralph Palumbo: And with HCAI, there is a pooling of data, but it's stripped of personal information. So there is a pool of data that says in 2011, perhaps, the psychiatrists invoiced the industry X amount, or there are these types of injuries broken down by age, by gender, by territory—that sort of thing.

On the CANATICS side, privacy obviously has to be respected, but it's very important when they're investigating that they can actually link certain clinics and certain other actors in the system from one company to those in another company. So there are two different processes, but I'm sure that HCAI will develop in such a

way—I'm sure it is—that they will be able to be of assistance.

Mr. Jeff Yurek: I was just going on my pharmacy experience. We have the Ontario Drug Benefit Program, and that links every single claim that goes through Ontario Drug Benefit. The government is fairly efficient at catching the double doctoring or the people who are getting their pills a week too early or two weeks too early or who are getting a 60-month supply when they should get a 30-month supply. I just don't see why we're forcing the insurance industry to form their own corporation to go after their own analytics when the technology is out there for an organization like FSCO, whose job is to regulate the marketplace, to actually fix HCAI to actually do this for the system, to help lower costs in the system, which would give us lower premiums in the province.

Ms. Barb Sulzenko-Laurie: Well, you're hitting a very soft spot with me, because some years ago, when we were just setting up HCAI, we had a vision that, "Wouldn't it be great to be able to link the HCAI system with data from the publicly funded health care system, with data from the workers' compensation system?"—particularly workers' compensation and auto insurance, because they use the same kinds of health providers. So we took that proposal to the privacy commission and they said, "Absolutely not. We'll not allow the insurance industry to have a link with these public databases," even with technology that could protect the identities of individuals and of clinics.

It was unfortunate because we thought that here was a real opportunity that would be a win-win for the publicly funded system, the workers' compensation system, and for auto insurance. Maybe that time is still ahead of us when that will be allowed.

Mr. Jeff Yurek: Okay. Do you know the term "moral hazard" with regard to insurance? Can you explain that to the committee?

Ms. Barb Sulzenko-Laurie: "Moral hazard" generally is an insurance concept that says that, for example, if you're located on a flood plain and you are able to get insurance against flood, you have no incentive, or limited incentive, to mitigate against the risk of flood and flood damage in your home. So it's by virtue of having insurance protection that individuals may feel that the onus is off them to make an effort to protect themselves from losses.

Mr. Jeff Yurek: Now, does rate regulation affect moral hazard?

Ms. Barb Sulzenko-Laurie: I have no question that rate regulation does affect moral hazard, rate regulation which protects the individual from the effects of their own driving. It's one of the reasons why we like some of the new technologies that are emerging, where there's a direct linkage between the individual's driving performance and the rates that they pay.

Mr. Jeff Yurek: I just want to ask, and I've asked this question in the House: Would the fact that FSCO is directing substandard companies to lower their rates for

Ontario's worst drivers be a good example of the kind of moral hazard that comes from excessive rate regulation?

Mr. Ralph Palumbo: Yes, and the difficulty is that we had a policy of rate reduction in a vacuum. I mean, companies were being asked to reduce their rates without any kind of accompanying cost reduction. Clearly, the government is looking at that, but at the present time that isn't there.

You then add on to that the fact that substandards are companies that insure people with driving records that are not exemplary, and you have a situation where people can argue that the worst drivers are in fact going to get a rate reduction, which is the reason why you have to be careful when you advocate a policy of rate reduction up to 15% without thinking it through.

1510

Mr. Jeff Yurek: Sure.

Mr. Ralph Palumbo: So those people, who can be terrible drivers—what incentive would they have to do anything about their driving? They're going to get a rate decrease—potentially. I'm not saying they will, but potentially they could.

Mr. Jeff Yurek: The person who, say, just was charged with drunk driving, maybe taking out a pedestrian or something, and charged—

Mr. Ralph Palumbo: Well, we have to give insurance companies more credit than that. I mean, obviously, they'll look at that. But the potential for some bad drivers—short of a driver who has killed someone, I would think—is that they could see rate decreases.

Mr. Jeff Yurek: Okay. How much time do I have left?

The Vice-Chair (Mrs. Donna H. Cansfield): Forty-nine seconds.

Mr. Jeff Yurek: Forty-nine seconds. Just a quick question: Referring back to your chart, return on equity by industry, should the construction industry be worried about the government coming and cutting their ROE in the future?

Ms. Barb Sulzenko-Laurie: Well, we hope not. We hope not. We like well-functioning markets.

Mr. Jeff Yurek: Thank you.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much for your presentation.

AVIVA CANADA

The Vice-Chair (Mrs. Donna H. Cansfield): Our next presenters are Aviva Canada: Mr. Somerville.

Mr. Rob Leone: Madam Chair?

The Vice-Chair (Mrs. Donna H. Cansfield): Yes?

Mr. Rob Leone: Does this work? Because it seems like it's broken here. That's why I'm—so we're good? Okay. That's all I wanted to know.

The Vice-Chair (Mrs. Donna H. Cansfield): Great. *Interjections.*

The Vice-Chair (Mrs. Donna H. Cansfield): How do you do?

Mr. Greg Somerville: Great, thanks.

The Vice-Chair (Mrs. Donna H. Cansfield): Great. I'll let you get settled in. I believe everyone has a copy of your presentation. You have five minutes for your presentation, sir. I'll give you a one-minute heads-up, and then we'll do rotation, starting with the Liberals.

Ms. Damerla, will you be taking this as well? Thank you very much.

Mr. Somerville, would you please introduce yourself and your guest for Hansard?

Mr. Greg Somerville: I sure will. My name is Greg Somerville. I'm the CEO of Aviva Canada. This is Ms. Karin Ots, a senior vice-president with our company, responsible for government regulatory affairs.

Let me first thank the committee for the opportunity to come and talk to you. It's certainly our view that there's work to be done in reforming the product, taking some costs out of the system. We've been asked to move forward through FSCO with a rate filing that respects the need to bring down premiums, but clearly we're concerned about the knock-on impact of requiring that the costs be taken out of the system—certainly, corresponding dollars to the premium reductions that we're looking for, for Ontario drivers.

If you look at the system in general, there are many opportunities, in our view, and some that can be done fairly simply. I think you'll see in the paper that we've—the paper has been shared with the committee, is my understanding, so you have our six points that we'd like to focus on as it relates to the need to address the cost side of the equation.

We also believe, from Aviva's perspective, that a longer-term solution likely should be worked on in parallel, which is a broader product reform, recognizing that many of the recommendations that we're making, similar to other reforms that have been enacted in Ontario, are sort of band-aids, if you will, looking to fix problems that have manifested themselves with the current legislation.

We also believe that, in parallel—I wouldn't want to derail any of the good work that's being done to deal with the cost reductions that are in front of us now and the opportunity to take costs out of the system and reduce premiums for Ontario drivers, but I think longer-term, sustainable reform is what we need to have in place, ultimately.

I would like to emphasize that there has been lots of good discussion. The fraud report has been commissioned. There has been work done on the cat definition. I guess, again, if you're looking for my view on any concerns, the concerns are that we need to start moving forward with some of these recommendations. We need to look to implement some of the changes that have been tabled and, in a responsible and effective way, start to take costs out of the system.

We've filed for a rate reduction. It's before FSCO. We're waiting to hear back from the regulator. That has obviously been on a promise that the costs will come out of the system. Clearly, to the extent that our rate filing is approved—I haven't heard one way or the other yet, to

be honest, but I am sure that they're working through ours and others in the backlog that's created—it will be important to understand what costs are being taken out of the system and what actions are being taken so that we can get comfort that the promise we've been given that the costs will come down is manifested. Clearly, what will happen is that the rates will come down. The uncertainty is what are the longer-term, sustainable actions that are going to be taken to ensure that the costs come out and stay out.

I will say this: Both Karin and I had an opportunity to present to Justice Cunningham on the ADR reform. I think I'd applaud that effort. I think that's a very good focus. Clearly, that system needs to be overhauled—

The Vice-Chair (Mrs. Donna H. Cansfield): You have one minute left.

Mr. Greg Somerville: Thank you. I think that the nature of that discussion and the draft report—and we will obviously be responding to the draft report. It has been sent out, we've had a look at it and we'll be responding, but I'd applaud that effort. I think there is some work to be done there and I think there are meaningful benefits to be achieved.

With that, I'll leave it to you, Madam Chair, to direct the questions to the appropriate parties. Given the time constraint that I've been put under, I'll stand down with any further comments until I get the questions.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much. We will start the questions with Ms. Damerla.

Ms. Dipika Damerla: Thank you, Chair. Thank you, Mr. Somerville and Ms. Ots, for coming here today and presenting. I'm also looking forward to a decision on your application for a rate reduction, something that I personally would be looking forward to as well as, I know, many of my constituents. Thank you for that.

You're the second-largest insurance company—a very big company. I'm just curious, because you operate in so many jurisdictions; I'm wondering if you can paint a picture and compare for us some of the insurance rates in Ontario vis-à-vis other Canadian jurisdictions.

Mr. Greg Somerville: Sure. I'm happy to do that. I'll let Karin take you through the details. Clearly, the premiums for the regulated auto product in this province are higher than others, but it's a function of the product. The cost of manufacturing is a function of the product that we have to administer. I'll let Karin take you through the detail.

Ms. Karin Ots: Sure. The average Ontario premium is approximately \$1,500. Compare that to the average Alberta premium, which is around \$1,000. Atlantic Canada, with the exception of Newfoundland, hovers around \$775.

Both Greg and I have been in the reform initiative game for quite a while. All of these products underwent significant reform in 2003-04. In the Atlantic, auto reform became a political issue, an election issue, for the New Brunswick government. The provinces that have got the lower premiums went in a certain direction. They've

got much tighter accident benefit coverage—\$50,000 for medical rehab, with a time limit of either two years in Alberta or four years in the Atlantic provinces.

The BI product is different as well. In Ontario, we have a verbal threshold for minor injuries; you have to show that you're seriously and permanently impaired before you can claim for pain and suffering. In the other jurisdictions, they set a cap on general damages, so you can get up to \$4,500 in Alberta and \$7,500 in the Atlantic provinces. Those differences seem to have made a large difference in keeping the costs down.

Ms. Dipika Damerla: I quickly looked at your recommendations and the one that you mentioned about the time period. In Alberta it's four years, and did you say—

Ms. Karin Ots: Alberta is two years.

Ms. Dipika Damerla: Two years, and in BC it's four years.

1520

Ms. Karin Ots: The Atlantic is four years.

Ms. Dipika Damerla: Four years. In Ontario, it's 10 years—

Ms. Karin Ots: Yes.

Ms. Dipika Damerla: —and one of your recommendations is that we come down to four years. I see that that's going to make a 7% reduction in premiums. Perhaps you could just speak to us a little bit about the mechanics of why it would reduce that much.

Ms. Karin Ots: Sure. This is the medical rehab, which is, if I'm injured, my own insurance company pays for my medical treatment. One of the problems that we have right now with the system is, it's 10 years, and we can't force people out of the system. Unless we choose to negotiate a full and final release for settlement, there's no mechanism whereby we help a claimant finish their claim and move on, never to come back. So one of the problems that we have from an insurance company perspective is we have claims that are open for a very long time, which means we have to keep people on staff that can handle those claims, even when they appear to be somewhat inactive. So bringing the time limit down shortens the period of time that a claim has to be worked on.

The other significant issue is that 10 years is a long time. For any of these injuries—a broken leg—you generally don't need 10 years' worth of treatment. That's why the dollars are so significant, to bring them out.

Ms. Dipika Damerla: What I'm hearing, because we've had a series of these hearings, is that there are two factors at play in Ontario. One is fraud; another is the fact that our product is much richer than comparable products in other provinces. Would that be a fair assessment?

Ms. Karin Ots: That's absolutely correct. In fact, the fact that the product is so rich drives some of the fraud as well.

Ms. Dipika Damerla: Yes. We have, as a government, as you may know, moved on some of these. I'm just going to read out some of our initiatives, which you're probably familiar with. The first one is, we are going ahead with licensing health clinics, and we're hoping that we should be able to bring that online by the

spring of next year, perhaps. We're hoping that that'll be a big push towards greater transparency and reducing fraud.

We've also laid about 164 fraud charges so far. Again, that's another step in that direction.

We're also looking at what you hinted at: dispute resolution. The government is moving forward to see what can be done to fix it.

Given these changes that we are working on, as well as some of the reforms we've made in 2010, can you tell us—the combination of these two: What has that done for you in terms of bringing the costs down?

Ms. Karin Ots: So far, the health care licensing: not enacted yet. Right now, that's still a zero. ADR, still under review, is a zero.

Fraud is a funny thing, because without question there is a ton of fraud in this system. At Aviva, we've invested very heavily in fighting fraud. We've always been at the forefront of fighting fraud. Mr. Somerville established our fraud investigation department well over 20 years ago. We've now grown that department to 43 employees; that's full-time staff, and all they do is investigate fraud. We've invested very significantly in data analytics, and we're part of the industry consortium as well. Over time, we will probably get more fraud out of the system, but it's really expensive to detect fraud, to investigate it and to get it out of the system. So if we're trying to count savings as a result of fraud, we need to find so much more to get that net savings.

Let me just speak to the health care licensing because I am on that working group. I think it's really important that the government make sure that FSCO has the resources to do the licensing adequately, to make sure that they've got resources that can look at the applications, go out and do the site visits, and take action against health care providers that are falling short. Otherwise, it'll just be a paper exercise.

Ms. Dipika Damerla: What about the 2010 reforms that we brought forward which put a cap on small claims injuries, for starters?

Ms. Karin Ots: Yes, the 2010 reforms, without question, in 2011 delivered savings. The concern that we always have is that these claims last for years. We generally don't know the outcome of a claim, often, for six or seven years. We've seen a lot of deterioration in the 2010 reforms. In the minor injury guidelines, 25% of our disputes right now involve minor injury claims. How those claims will play out through the FSCO ADR system will have a significant impact on whether or not the minor injury guidelines stand. If you look at the Scarlett v. Belair decision, that was not a great first decision.

Against that backdrop, we've got catastrophic claims. We had the unfortunate misfortune of having one of the leading cases, called Pastore v. Aviva. That case has brought down the catastrophic threshold greatly. So we have more catastrophic claims coming in, adding more money, and that's going to deteriorate whatever happened on the 2010 reforms.

Mr. Greg Somerville: To reinforce what Karin is saying, we can deal with some of those risks to the product through reform change. We can deal with the recommendations around the cat definition, and we can deal with some tightening of the MIG definition—the minor injury guideline—to get it to operate as intended to operate and not have the kind of leakage that it's having and the risks that it's having based on some of the jurisprudence that's coming out.

Ms. Dipika Damerla: The rate of return on equity for auto insurance companies is a hot issue these days. Can you explain what the current return on equity looks like for your company?

Mr. Greg Somerville: For Aviva, it's 3.1%.

Ms. Dipika Damerla: Some of the numbers that were thrown around were, I believe, 7% industry average. Are you saying—

Mr. Greg Somerville: I think 6.4% is the number I've seen from the industry. But to look at any return on equity as a snapshot, certainly from our perspective, is not a very responsible way to approach it. If we did that as it related to habitation business, for example—we've just incurred \$235 million worth of losses in Alberta and in Ontario from floods, and if we looked at that on an acute basis and said, "What's the return on equity for that business?" we likely wouldn't be writing it anymore. So we have to look at those things over a longer horizon. These claims in particular have a seven-year lifespan. You really don't have a sense, given the maturity of injuries and how long it takes for them to plateau, whether the cost of manufacturing an injury product is appropriate till six or seven years down the road.

So to make those decisions in isolation of looking at the broader horizon—we just can't run our business like that. There are too many other factors. Like I said, we'd like to get out of hab business if we looked at one year.

Ms. Dipika Damerla: Just for clarification, that 3.4% is on auto alone; right? I heard you talk about flood insurance. That would be a totally different product—

Mr. Greg Somerville: Yes, the number I gave you is auto. I'm just highlighting that to look at those kinds of returns on a one-year basis is not the way we would look at it, for the reasons I mentioned.

Ms. Dipika Damerla: Okay. One of your other recommendations is around dispute resolution. Could you just expand on what you'd like to see different?

Mr. Greg Somerville: ADR.

Ms. Karin Ots: The ADR system, sure. We've put a fairly extensive submission in to the committee.

The first thing that we would like to see is we would like to see the system move out of FSCO. We think that there's an inherent conflict that FSCO has in being the regulator and then also being the arbiter, the court. We would like to take the arbitration system back to—it's a single dispute, so if Aviva has an issue with their customer, they mediate, they arbitrate; that's it. It's not case law-setting until it gets to a court. That was the other recommendation that we made.

We would also like to see some action in terms of limiting the types of disputes. There are too many disputes in the system right now. If we were to introduce more programs of care, we would get rid of the amount of disputes around medical treatment. We shouldn't be fighting with our customers over what's the appropriate treatment for a soft tissue injury strain. I think medical science should be capable of establishing what it is.

Mr. Greg Somerville: We were pretty straightforward with Justice Cunningham that this is the AB environment. These are people who bought policies from Aviva. So the first line of dispute resolution should be our customers talking to somebody at Aviva. We feel really strongly about that. To the extent that we have a dispute with somebody, we'd like to have a mechanism where we would sit down with our customer and try and resolve the dispute directly, rather than people retaining counsel and everybody goes in their corner and the next thing you know, you're in a dispute and a fight with your customer. We just don't think that's—the first step should be us sitting down with our customer, and to build a mechanism that allows that to happen and facilitates that.

1530

Ms. Dipika Damerla: Chair, how much time do I have?

The Vice-Chair (Mrs. Donna H. Cansfield): You have two minutes and 17 seconds.

Ms. Dipika Damerla: Thank you. So my last question is going to be this. You've said that you have filed for a rate reduction. Perhaps you could speak to what has allowed you to file for that rate reduction.

Mr. Greg Somerville: The promise that costs are going to come out of the system.

Ms. Dipika Damerla: Sorry?

Mr. Greg Somerville: The promise that costs are going to come out of the system, which is why I said that's a concern that I have. We've had to file in advance of the costs coming out, and we've had—like I say, there have been lots of good conversations and rhetoric around things that are going to happen. I just think some meaningful actions need to take place to start to drive the costs out of the system to make these changes sustainable for everybody.

Ms. Dipika Damerla: All right. Thank you very much.

The Vice-Chair (Mrs. Donna H. Cansfield): No further questions?

Mr. Yurek.

Mr. Rob Leone: Can we get her time, Madam Chair?

The Vice-Chair (Mrs. Donna H. Cansfield): Yes, you do. Are you going to take the lead, Mr. Leone?

Mr. Rob Leone: No. I just wondered.

The Vice-Chair (Mrs. Donna H. Cansfield): Mr. Yurek?

Mr. Jeff Yurek: Thank you, Chair.

Thanks for coming in and speaking to us. I don't think Aviva has been at committee yet, have they? I don't recall if you've spoken at committee.

Ms. Karin Ots: No.

Mr. Jeff Yurek: Welcome.

Ms. Karin Ots: Thank you.

Mr. Jeff Yurek: We're hoping that the review comes to an end soon. It's been a long two years that we've been at this, and it would be nice to have a report at the end of the day.

Since you haven't been here previously, I'd like to just take an opportunity to ask you a question with regard to territories. If the territories were removed from Ontario, as has been put forth by the third party, what effect would that have on the rates of, say, someone living in Niagara Falls?

Mr. Greg Somerville: Somebody in Niagara Falls? I'm not really sure I know the answer to that, but it would—I don't know the context of that comment to "remove the territories," to be honest. If I had more—

Mr. Jeff Yurek: There's a bill in the Legislature to remove the territories.

Mr. Greg Somerville: I'm aware of that, but the context meaning that everybody pays the same rate? Well, then, obviously if that's the context of it, then that's—I mean, we underwrite based on the individual risk characteristics, and that would be more of a social pricing issue. Obviously, if everybody's paying the same rate, some people are going up and some people are going down. That's not rocket science.

Mr. Jeff Yurek: Would you be able to supply to the committee an idea of an average that the rates would be affected in the Niagara area if they weren't—

Mr. Greg Somerville: Yes, we could undertake to provide some of that information, for sure.

Mr. Jeff Yurek: That would be great. Thank you.

Mr. Greg Somerville: Clearly, some people would go up and some people would go up down if you moved more towards social pricing rather than underwriting by risk characteristics.

Mr. Jeff Yurek: Thank you. I just want to talk about some of the rate reduction. I appreciated what you've submitted to the committee. Prior to 2010, the claims costs were high at a time when, after 2008, a lot of our securities tanked out, so it had a double impact on insurance market profitability. In 2010, the government came out with their reforms to provide some cost relief. However, things constantly change, and you even mentioned in your report that we're seeing an increase in bodily injury claims. Can you tell us what's driving up those costs and why we are beginning to see an increase in the bodily injury claims?

Ms. Karin Ots: Sure. So a number of factors, I think, one of them procedural. There's very much a backlog in the courts as well. We seem to have more bodily injury claims going into courts. Here in Toronto right now, the waiting time for a trial from the time that you get to the point in the process where you actually set a trial to the trial is about 18 to 24 months. Again, the longer a file stays open, whether it's a BI file, a property file, an accident benefit file, the more costs are incurred.

There's also a great incentive to—you know, there's an active plaintiff bar at work. They do a great job of

securing funds for their clients, and there have been a number of changes to law firm advertising, contingency fees, all of which probably drive more BI claims or more claiming behaviour.

The accident benefit file—because of where the threshold is set, because the claimant does have to show a serious and permanent injury, there is more incentive to work up an accident benefit file to get more medical reports to show that a claimant is more seriously hurt, to elevate the BI claim. Can you think of anything else?

Mr. Greg Somerville: No. I would just not underestimate the last point. There are collateral incentives, given the threshold and the deductible, to use the accident benefit side of the policy to build the file for the threshold on the other side, which is alive and well. There's activity in the province for sure.

Mr. Jeff Yurek: With respect to the bodily injury claims that are increasing, what will happen to the system for insurers if the government fails in its quest to lower costs? If they somehow are unable to lower the costs in the next year or so, what are we looking at in the industry?

Mr. Greg Somerville: At the highest level—I'll speak for Aviva in a minute—it's going to be problematic, depending on the relative starting point of the individual company as to where they are in their profit cycle and what they're asked to reduce premiums by. Clearly, if we don't see corresponding cost reductions, it's going to make it difficult to sustain the business. You're obviously going to have profits eroded and then the appetite to write business.

Listen: We're dealing with fairly sophisticated capital that has choices as to where it goes. Given the volatility of this business—a case in point, the \$235-million worth of storms that we've responded to in the last 90 days—the returns need to be there to keep people interested in putting their capital at risk to protect not just Ontarians but Canadians. To not see the manifestation of cost reductions in line with the request to reduce premiums will make some people seriously nervous. As I say, the capital is somewhat sophisticated and has choices. I certainly have to compete with other CEOs around the world for Aviva's capital. If the environment is not seen to be friendly enough to allow us to price our products and free enough to allow us to make returns to keep the shareholder interested, I'm going to have challenges and I'm going to have decisions to make domestically about where we place capital in Canada.

Mr. Jeff Yurek: Just going on to your recommendations, this chart you gave us comparing WSIB charges to what FSCO allows—I was quite shocked at the differences in what is paid out. Can you maybe comment or go over the chart for the committee?

Ms. Karin Ots: Sure. It's the appendix, so it should be at the very back of the package.

Ms. Dipika Damerla: Sorry, which one?

Ms. Karin Ots: The end, at the very back. It starts with "Aviva Comparison." This is our research. FSCO, as you may know, negotiates hourly rates with health

care providers. In the first column, I've shown the FSCO maximum hourly rates. We pay chiropractors \$111.80 an hour. If it's a catastrophic claim, the hourly rate goes up to \$134. In the columns next to it, we've set out the WSIB rates. As you can see, they're a fair amount less than the FSCO amount.

Two other points: I understand that FSCO has put on their list of approved health care providers more types of health care providers. If you turn to page 2, the unregulated providers, you'll see that there are certain categories of occupations that WSIB doesn't reimburse. So that's another difference in the savings.

The third difference—and we haven't included any of this because our research is still fairly incomplete—is that the WSIB has more programs of care. Right now in the auto world we've got the minor injury guideline, which talks about how to treat a minor injury. WSIB has got programs of care built out for back injuries and for head injuries, so that's another way that they've contained the cost of treatment.

I think that there is lots to learn from another agency in Ontario that's dealing with injuries.

1540

Mr. Jeff Yurek: Onto your reform of the ADR system: You've already talked about privatizing the dispute resolution system, and you made comments. Any further comments that you want to make on the benefits of—you already talked about removing the costly counsel out of the way that tend to put everyone in their corners to come out fighting. Do you have any other further benefits?

Ms. Karin Ots: The one benefit that we haven't included is whatever benefit would tie to stabilization, if you made the system more stable. Before I moved into this job I was the head of our accident benefit and BI claim department, and I was often the ultimate decision-maker on whether or not to take a case into FSCO or the court. It's a wild card. In Pastore, we had no less than three legal opinions that told us we had a good case, and we lost, so anything that we can do to stabilize the outcome of the decisions just takes more cost out because you don't have to fight. That's the same for the plaintiff's side. If they know that the word "the" means "the," there's no fight over it.

Mr. Jeff Yurek: In your last point here about limiting disputes to questions of entitlement and eligibility, I think you touched upon that, and that's more of the wording of—

Ms. Karin Ots: Yes. The more that we can do to, again, clarify or move this policy toward almost more like what a disability policy looks like—I'm sure that most of us have got disability policies. You know when you go in that you've got \$1,500 worth of physiotherapy treatments at the beginning of the year, and then you're able to plan: "This is what I'm going to get. I'm going to take my \$1,500 worth of physiotherapy treatments." We tend not to fight with our disability carrier.

It's the same when you go for dental treatment. I know that my root canal may or may not be covered. I'm told that in advance or I can read that in my handbook.

There's no fighting over it. That all takes costs out of the system. That's what we're recommending. The more we can put in that creates some sort of certainty—it's critical for the person who is injured that they know that this is how much money and this is how much access to treatment they have, and then they don't have to fight over it—the more that helps the system become more stable and cost-effective.

Mr. Greg Somerville: If you look at many of the components of the AB portion of the policy, it's similar to things you'd find in a disability policy. Consumers are not unused to caps and limits and certainty in disability policies, whether it be for a weekly indemnity in income or prescribed treatment, and the number of visits and dollars associated with it, which brings, for both parties, certainty to the contract and to the transaction.

Mr. Jeff Yurek: Further, you haven't been here to comment on it, but the Scarlett and Belair arbitration decision added a lot of questions to what the MIG covers. Can you talk about the implications of that decision for the system?

Ms. Karin Ots: Sure. Yes, I'm happy to talk about that; I'm just looking for my notes on that. We've certainly seen an impact as a result of that decision, even though it's not finalized. What we have seen is that the nature of the assessments all of a sudden changed. We get a lot of assessments every day on claimants who are injured. All of a sudden, instead of just being a soft tissue injury, there's a whole list of associated symptoms, including things like anxiety and chronic pain, which very closely start to mirror the Scarlett and Belair list of symptoms. I hope that Scarlett and Belair will stand and the same list of symptoms will allow the claimant to come out of the minor injury bucket, so for sure, we've already seen that coming.

We've got a couple of solutions for the minor injury guideline. I think that there is work that can be done to tighten up the definition again so that there's more clarity—if you're in, you're in and if you're out, you're out—and less dispute over it.

We would also like to see everybody go into it. There's no medical reason, from the doctors and the health care professionals we've talked to—everybody who has a minor injury should go into this guideline. Right now, there's a big exemption if you've got a pre-existing issue, and not surprisingly, now we see a lot of people with pre-existing issues that we say, "They shouldn't be in this guideline."

Again: a great idea. It's a good program of care. It works. You had a lot of the best doctors and medical people around the table helping to write this, but we think it's time to revise it a bit and tighten it up so that it delivers the savings.

Mr. Jeff Yurek: Do I have much time?

The Vice-Chair (Mrs. Donna H. Cansfield): You have 17 seconds.

Mr. Jeff Yurek: Seventeen seconds. Just quickly on the catastrophic definition, I haven't heard anything from

the government side that that's a cost-saving measure. Have there been any discussion?

Ms. Karin Ots: We've not heard anything, other than what has been announced in the press.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much for your presentation.

Mr. Rob Leone: Point of order, Madam Chair.

The Vice-Chair (Mrs. Donna H. Cansfield): Yes, sir?

Mr. Rob Leone: I'm just mindful of what's happening in the Legislature right now. I know we're going to be—probably in the middle of the NDP questioning, going to have the bells ring. I was wondering if we could recess the committee so that we don't disrupt the members from the NDP's line of questioning until after the—

The Vice-Chair (Mrs. Donna H. Cansfield): The normal process is that we actually continue through and then suspend once the bells are ringing. But what we could do is find out how much time is left. Could you call and find out? Let's check that first and then the committee can make a decision.

Mr. Rob Leone: Okay.

The Vice-Chair (Mrs. Donna H. Cansfield): So what it is, ladies and gentlemen: We have a vote in the House. We'll just see how close we are to when the bells will ring. It's probably a 10-minute bell, but it also means that we suspend your discussion for a few moments as well. We're very cognizant that we have another group waiting to be heard as well.

We have till about approximately 4:01 p.m., and then there'll be a 10-minute bell. That would give you approximately 12 minutes.

Mr. Singh, would you like to suspend or would you like to speak?

Mr. Jagmeet Singh: It's 12 minutes right now?

The Vice-Chair (Mrs. Donna H. Cansfield): Yes.

Mr. Jagmeet Singh: Until the bells will ring?

The Vice-Chair (Mrs. Donna H. Cansfield): Right; approximately.

Mr. Jagmeet Singh: I'm okay with that, then.

The Vice-Chair (Mrs. Donna H. Cansfield): Okay. Let's start and go ahead. Thank you very much.

Mr. Jagmeet Singh: Good afternoon. Thank you for being here.

I want to ask you some questions regarding the territories and how they're set up. I understand that insurance companies are able to determine their own territories and then those territories have to be approved by FSCO.

Mr. Greg Somerville: That's correct, yes.

Mr. Jagmeet Singh: Okay. I understand that there isn't a limit as to how big the differential is between one territory and another. The only restriction is, if an existing territory is divided, there can't be more than a 10% spread between a divided territory, but if it's a pre-existing territory, there can be as much of a gap between one and the other.

Mr. Greg Somerville: You haven't got the chief underwriter here; you've got the CEO. I can undertake to get you an answer for that. The rules are set by FSCO—

the number of them. We have to file our view of how we're going to divide the province up, and it gets approved by FSCO. The number and the rules around how we go about defining are mandated. Then we have to file them and they're approved by the regulator.

Mr. Jagmeet Singh: Okay. Would you be able to give your undertaking to provide an answer—just the difference between one territory and another, that there is no limit on how different the rates can be from one territory to another?

Mr. Greg Somerville: We can check on that, yes.

Mr. Jagmeet Singh: I'm going to read you the collateral benefits rule. Tell me if this applies.

Mr. Greg Somerville: You're going to read me the what, sorry?

Mr. Jagmeet Singh: The collateral benefits rule.

Mr. Greg Somerville: Oh.

Mr. Jagmeet Singh: If you can then comment—I'll ask a question about that.

In the context of auto insurance, the rule means that, "Auto insurers are liable to pay accident benefits (the no-fault benefits available to all accident victims) only after all other insurance plans or programs available to the insured have been exhausted. In this respect, therefore, auto insurance is a second payer."

Do you agree with the statement?

Ms. Karin Ots: We can both take a shot at answering.

Mr. Jagmeet Singh: Good.

Ms. Karin Ots: Yes, that's the rule. We are a second payer. There is a long-standing history of push and pull between us and the life companies or the disability companies over who goes first. A number of the life companies have tried to get around that rule by writing in exceptions, that they aren't the first payer, but we take the position that they are the first payer.

1550

In terms of the impact—

Mr. Greg Somerville: Yes, I was just going to say it's important to note that it's not an underwriting criteria. We're not allowed to underwrite for disability, the existence of a disability plan. It only comes at the point of a claim, where somebody gets asked what benefits they have available, and the adjuster would work through that process. So to me, if those benefits that are deductible are in the loss-cost pool—and I'm taking it up to a high level for Ontario. If they are removed, the loss-cost pool gets bigger and premiums go up for the auto insurance companies. It's not on an individual basis. It flows through the loss cost as a result of the claims that are adjusted where there are collateral benefits. But it's not underwritten on an individual basis; it just becomes part of the—

Mr. Jagmeet Singh: The overall kind of cost analysis.

Mr. Greg Somerville: Yes. The costs would go up if those benefits weren't taken across a category of claims.

Mr. Jagmeet Singh: Okay. So if I can just put that into layman's terms, then, and I'll give myself as an example: If I don't have any other form of health benefit, then my auto insurance policy would pay the first dollar

on anything that's not covered by OHIP. Would that be accurate?

Mr. Greg Somerville: Subject to the conditions and the terms of the policy. I mean, to get the full benefits of the policy, not everything, but—

Mr. Jagmeet Singh: So whatever I'm approved to, based on the policy that I have, if I don't have any other form of insurance, if I don't have any other program, any other private insurance, then if I have auto insurance, whatever I'm entitled to be paid would be paid first, subject to whatever wouldn't be covered by OHIP.

Mr. Greg Somerville: OHIP, yes. Correct. And if you weren't at fault, there would be a liability claim—

Ms. Karin Ots: Right.

Mr. Jagmeet Singh: So if I compared one individual with another individual, you would agree with me that the one individual who had, for example, some private coverage, whether it's disability or life insurance or some other form of coverage—in an accident, if they made a claim, that individual would cost less than that exact same accident, the exact same individual who didn't have any other form of private insurance or any other sort of coverage. If you looked at the cost for those two people—identical accidents, identical circumstances, one with additional private coverage, one without—the one with the additional coverage would actually cost the insurance company, the auto insurer, less than the one without those benefits. Is that a fair—

Mr. Greg Somerville: To the extent that they had collateral benefits that applied to the claim they presented to the insurance company, the costs would be taken as a credit against the first payer, yes.

Mr. Jagmeet Singh: Thank you. I think that's a very fair response.

So isn't it true that in the GTA, in certain communities, in certain parts of the GTA, there's likely to be a higher proportion of folks, of residents, who have collateral benefits, and some other areas in the GTA where people would have a lower proportion of that type of coverage?

Mr. Greg Somerville: We're not allowed to underwrite for that criteria, so I couldn't give you the answer to that.

Mr. Jagmeet Singh: You're not allowed to underwrite for it, but you would agree with me that there is a likelihood that in certain areas there's a different proportion of folks who are covered by collateral benefits compared to other areas where they're less likely to be covered by collateral benefits?

Mr. Greg Somerville: Intuitively, that makes sense. I don't know what those areas are as I sit here. There may be some areas that have more or less.

Mr. Jagmeet Singh: And it would flow. I mean, if we're following this line of argument that in those territories or those areas that are drawn up where there's a higher proportion of people who don't have other sorts of benefits, those territories might actually cost—in general, the entire territory might cost the insurance company

more. Their claims costs might be higher because they don't have that proportionality of coverage.

Mr. Greg Somerville: I don't know if it's—you're using the word "territory." it could be one house to the next house.

Mr. Jagmeet Singh: Exactly; whatever the territories are defined by. Each individual, for example—

Mr. Greg Somerville: No, I'm just saying that the scenario you're articulating could be one house to the next house. You make it sound like they're all in one territory and not in another territory. Somebody could have collateral benefits in one house and not in the next house. It's so mutually exclusive to the individuals. I don't have any information to suggest it's one territory over another territory. It's an individual circumstance within any territory.

Mr. Jagmeet Singh: I'm suggesting that there might be certain territories within, for example, the GTA. If we look at different boundaries that are drawn up by each individual insurance company, there are certain boundaries where the residents in that territory—for example, if we choose certain communities in the Rosedale community, the Lawrence Park community, they might have a higher proportion of folks who are covered with collateral benefits. If we choose another territory, another community, they might have a lower percentage or proportion of folks who are covered by benefits of that nature. The proportions will be different in different communities.

Mr. Greg Somerville: I haven't done any research on that, so I don't know the answer to that. It might intuitively make sense, but I don't know to what magnitude and what territories, because we don't collect that data; we're not allowed to underwrite for that.

Mr. Jagmeet Singh: That makes sense.

My next question is, what are the implications, if there is a difference in costs in terms of claims costs based on an area that has a higher proportion of folks with coverage and another area with a lesser percentage of folks with coverage—the fact that the provincial average is about 80% of people who never make a claim in their lives. What is the implication for those folks, given that each territory's costs are higher or lower, based on those who have a higher percentage of coverage and those who don't? What would be the implication to those who don't ever make a claim, those 80%?

Mr. Greg Somerville: Eighty per cent that don't ever make a claim?

Mr. Jagmeet Singh: I guess the premise of my question is—

Mr. Greg Somerville: Eight per cent is our frequency rate, so 92% of our customers don't make claims; 8% do.

Mr. Jagmeet Singh: Okay. So the provincial average is 80%.

Mr. Greg Somerville: I'm talking about in total across Canada. I don't have a specific Ontario number.

Mr. Jagmeet Singh: The Ontario number that I've been advised of, the provincial average, is 80%, but if it's higher, that's fine. What is the implication, then, if territories is one of the bases that's allowed by FSCO—

you can increase or decrease your rates based on territory—if a certain territory costs you more, and it costs you more because the residents of that community are less likely to have benefits, but the fact is that, in your case, 92% of those folks never make a claim? What is the implication to them, that they never make a claim but the 8% drives up the costs a bit more in one territory versus the other?

Mr. Greg Somerville: I think what's implied in the question is that that's an overriding material factor. Our loss costs are different by territory and frankly driven by many factors that we're allowed to understand that aren't related to what you just said. It could be the person's employment income; it could be the level of benefits required to treat the injury. There are so many different factors that drive the ultimate loss cost. In fact, our GTA loss costs are higher than outside, so that seems to be at odds with your question, if you're assuming that the people in the GTA are the ones on the other side of that equation.

Ms. Karin Ots: I think the other thing to understand is that private health coverage does have its limits. It's a policy that's even much more limited than the auto policy, so its overall impact on loss costs I can't say, because we have not looked at it, but I would hazard it's not that significant.

Mr. Jagmeet Singh: Are you in a position to—or do you have any data that would speak to this issue that different areas—the cost for each territory, that the fraction or the proportion of that cost is attributable to the fact that those areas have a higher likelihood of having additional benefits? Would you have any way of assessing that?

Mr. Greg Somerville: No, we don't have any way, because I mentioned several times that we're not allowed to underwrite for that. It's not in our underwriting criteria, and we can't collect the data on our customers.

Ms. Karin Ots: We can't even ask them.

Mr. Greg Somerville: We can't even ask the question. I guess if we could, we'd be able to answer it more positively.

Mr. Jagmeet Singh: Would you agree with me, though, that it is one of the factors, maybe not the overriding factor, but it is one of the factors in the cost analysis between one territory and another? One of those factors would eventually be the fact that some areas might have a higher density of folks who are covered by additional benefits and other communities would have a lesser percentage or density of folks who are—

Mr. Greg Somerville: I can't agree, because you said “the cost analysis,” and we don't do a cost analysis on that basis, so there is no analysis on that basis.

Mr. Jagmeet Singh: In terms of the territories, though—maybe you could answer for Aviva—do you assess the cost incurred by each territory, that this territory costs us more and because it costs us more—

Mr. Greg Somerville: I guess we look at the loss costs by territory, but to Karin's point and my point earlier, there are many factors that drive the loss costs in

any given territory, and the one that you're raising is one that we're not able to isolate and underwrite for.

Mr. Jagmeet Singh: Okay. Though you're not able to isolate it, you would agree with me that it will probably factor in because it's one of the cost factors? If there are a lot of people in a particular community who are covered by additional benefits, they're going to cost you less, and in another community that doesn't have those benefits, it's going to cost you more. That seems to be an intuitive argument; do you agree?

Ms. Karin Ots: I think it's so speculative, which is why I think we're both hesitant. I'm happy to answer it at a claim level. If you have one claim where the person has collateral benefits, if those collateral benefits kick in and cover some of the injury-related treatment or disability, yes, that will be lower than a claim that doesn't have that. But I'm sorry, we can't extrapolate.

Mr. Jagmeet Singh: That's fine. I tried my best to push you on that.

Mr. Greg Somerville: You're definitely trying.

Mr. Jagmeet Singh: Thank you. Just a quick question: In terms of the richness, I guess is the question, of the product in Ontario, would you agree with me that on our minor injury guideline, we're amongst the poorest in terms of coverage, but that in perhaps the catastrophic injury, we're in a better position? If you isolated not the overall claims and the average claim payout but just our minor injury guideline in the province of Ontario, we're amongst the poorest in terms of coverage—that \$3,500 cap—

Ms. Karin Ots: The other provinces haven't established anything similar to a minor injury guideline. When I talked earlier about what the other provinces had done, that was on the BI side. On the accident benefits side, they don't have a minor injury guideline—

Mr. Jagmeet Singh: That's why I'm making this assertion that—

Ms. Karin Ots: I don't know what they have. A lot of the US states—New Jersey and New York have programs of care.

Mr. Jagmeet Singh: We can leave America to the side; we're going to focus on Canada. But you agree with me, though, that if we focus in on the minor injury guideline portion, we're not by any means the richest province in terms of coverage. We're probably amongst the lowest coverage on that side.

Ms. Karin Ots: Being the lawyer here, I get to play with words. We're the province that has a minor injury guideline.

Mr. Jagmeet Singh: Sure. I'll take that as it stands. There has been an estimated—and the Insurance Bureau of Canada also supports this rough figure, that since the 2010 changes to the insurance regime, there has been \$2 billion—

Interruption.

Mr. Jagmeet Singh: That's my 14 minutes, so I think I have a minute left. There has been about \$2 billion—

The Vice-Chair (Mrs. Donna H. Cansfield): You have 49 seconds left.

Mr. Jagmeet Singh: How many?

The Vice-Chair (Mrs. Donna H. Cansfield): Forty-nine seconds.

Mr. Jagmeet Singh: A \$2-billion reduction annually: By and large, do you agree with that number? Even with the Scarlett decision, even with increasing the BI side, it still hasn't significantly been changed. It has been a huge cost savings, probably one of the most historic cost savings in the history of Ontario, since the 2010 changes, and those changes really aren't significantly going anywhere. Your response to those two comments?

Mr. Greg Somerville: You can speak to the claims side, what you guys are seeing on the claims side, because that's—

Ms. Karin Ots: I think I did speak to that. They're deteriorating fast. We need to be extremely worried about the impact of that lowered cat impairment limit. We've yet to see a minor injury guideline—

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much for your presentation. We were well within the guidelines before we now go for a vote, so we will suspend this meeting until the opposition day vote is done.

The committee recessed from 1603 to 1622.

The Vice-Chair (Mrs. Donna H. Cansfield): We'll call the meeting back to order.

CANADIAN INSTITUTE OF ACTUARIES

The Vice-Chair (Mrs. Donna H. Cansfield): Mr. Oakden, we would be delighted if you would come and join us. If you would say your name and your credentials for Hansard. You have five minutes, sir, and I'll just say, "One minute," so you'll have a heads-up.

Mr. David Oakden: I'm David Oakden. I'm here representing the Canadian Institute of Actuaries. I am a past president of the Canadian Institute of Actuaries and one of a number of people who speak on behalf of the institute on general insurance matters. I am currently retired. Prior to my retirement, I was managing director of the actuarial division at OSFI, in charge of P&C actuarial matters. I think the CIA was asked to come here today to clarify the use of the term "actuary," and so that's really my primary purpose in being here.

The term "actuary," like the term "accountant," is not a term that has a restricted use in law, so anybody can call themselves an actuary. However, there are a number of laws in Canada—I could hand this to you, if you want; it's a 12-page document that references all the reserved roles for actuaries in Canada, and in every case, these reserved roles are restricted to a fellow of the Canadian Institute of Actuaries. I'm just going to quote these. I don't think it's something that you need to have, but I could leave this with you, and you could hand it out afterwards.

The Vice-Chair (Mrs. Donna H. Cansfield): Would that be sufficient? Well, leave it with us, Mr. Oakden—

Mr. David Oakden: I'd be happy to leave this with you.

The Vice-Chair (Mrs. Donna H. Cansfield): That would be great. Thank you very much, sir.

Mr. David Oakden: For example, the Insurance Act of Ontario defines "actuary" in one of the definitions as "a fellow of the Canadian Institute of Actuaries." It then goes on to define the duties that actuaries perform.

More important, sections 410 to 417 and section 7 of the Automobile Insurance Rate Stabilization Act, 2003, allow the superintendent to set procedures for approval of rates for personal auto insurance. The current procedure requires a statement of an FCIA.

Another example would be: The Insurance Companies Act of Canada also defines "actuary" as a fellow of the Canadian Institute of Actuaries.

Whenever there's a law requiring an actuary to perform a reserved role, it is always a fellow that has been defined.

Just in terms of our procedures, the Canadian Institute of Actuaries, in recognition that there is some confusion around the use of the term "actuary"—we don't require our members, but we strongly advise our members, to only use the term "actuary" when referring to a fellow of the Canadian Institute of Actuaries, so that members would not—for example, I would not use the term "actuary" to describe anyone who was not a fellow in the Canadian Institute of Actuaries, and other actuaries would follow that practice, to try to make it clear to the public that that is the case.

I should point out that in other countries there is a category of "associate actuary." It's very similar to Canada and the USA. The USA does permit associate actuaries to call themselves actuaries, but in Canada we do not.

I'd also like to point out that the CIA has a number of rules. One I would like to point out is that an actuary is not allowed to associate himself or herself with anything that is false or misleading. Any documents you receive, signed by an FCIA, should stand up to that criteria. Any document that has actuarial input, because the actuary has allowed himself or herself to be associated with that document, would also be subject to the same criteria. There is a discipline process, if that is not the case.

Also, while I'm here, I'd just like to make some general comments. First of all, the rates that companies set are all signed off on, or at least almost all of them are signed off on, by a fellow of the Canadian Institute of Actuaries or by an actuary, in my definition. That sign-off and that work are subject to our standards of practice and the rules. Therefore, I think, to make any cut in insurance premiums would require a commensurate cut in the benefits that are payable. You can't just cut the premiums without making a commensurate cut in the benefits.

That ends my remarks.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much. We start with Mr. Yurek.

Mr. Jeff Yurek: Thank you, Chair. Thanks for coming in today. Only certified actuaries can sign off on rate filings—you mentioned that—with insurance companies?

Mr. David Oakden: Only a fellow of the Canadian Institute of Actuaries.

Mr. Jeff Yurek: Can you explain why it has to be only a fellow? What is the importance of it being associated with that?

Mr. David Oakden: To be an actuary in Canada, you have to basically pass a number of examinations. Basically, an associate only passes some of the examinations, not all of them. The associate is a little more than half-way along in the process. We really think that to sign off, one has to go through the full course of being an actuary. There's a lot of detailed information on the higher exams that people on the lower exams—I mean, they may know that information; they just have not demonstrated, through an examination, that they have mastered that information.

Mr. Jeff Yurek: Further to the Canadian Institute of Actuaries, do you have a code of ethics that your members abide by?

Mr. David Oakden: Yes. We have rules of conduct; we have standards of practice.

Mr. Jeff Yurek: Are there any disciplinary actions taken if someone breaks the code?

Mr. David Oakden: We have a disciplinary process, and actuaries are disciplined if they don't follow our rules. One of the rules requires that you follow the standards, and the rules basically are a code of ethics.

Mr. Jeff Yurek: Would it be fair to compare it to, say, the Law Society of Upper Canada? Would that be a fair comparison?

Mr. David Oakden: I think maybe the Canadian Institute of Chartered Accountants might be a fairer comparison.

Mr. Jeff Yurek: So anybody who really is an actuary knows the importance of keeping these professional standards in check when doing their job.

Mr. David Oakden: That's correct.

Mr. Jeff Yurek: Is it true that actuaries are bound by certain standards when it comes to analysis and the way they present that analysis?

Mr. David Oakden: Yes, there are general standards that apply to all actuarial work, and then there are specific standards that would apply to other aspects, such as filing auto rates or filing insurance company financial reports.

Mr. Jeff Yurek: I have a report here that I'd like you to take a look at, and I'd like to ask you a question on it if I hand it to you.

The Vice-Chair (Mrs. Donna H. Cansfield): Does everyone have a copy of the report?

Mr. Rob Leone: I actually don't—

The Vice-Chair (Mrs. Donna H. Cansfield): Could we get a copy so everyone has it?

Mr. Rob Leone: Five-minute recess.

The Vice-Chair (Mrs. Donna H. Cansfield): Could we have a five-minute recess then, or as long as it takes, just to do this. How's that?

The committee recessed from 1630 to 1642.

The Vice-Chair (Mrs. Donna H. Cansfield): So we'll reconvene the meeting.

Interjections.

The Vice-Chair (Mrs. Donna H. Cansfield): Ladies and gentlemen, if we could, please, we will start. Mr. Yurek, you have 12 minutes and 10 seconds.

Mr. Jeff Yurek: Thank you, Chair. I'd just finished my last question. It was about certain standards when it comes to analysis and about why they present that analysis.

This two-page document was given to committee in regard to insurers' profits in the Ontario market. Does this document resemble anything that an actuary, who is bound by the institute, would officially present?

Mr. David Oakden: No, this is not something that an actuary would present. This is some raw data. Without some words and descriptions, I really can't tell what it is.

Mr. Jeff Yurek: Okay.

Mr. David Oakden: But, first, an actuary, if they were presenting something official, would sign it. Second, there would be a verbal description, perhaps going on for quite a few pages, describing exactly what assumptions they used, exactly what data they had used, and what steps they had taken to ensure the data was accurate.

Mr. Jeff Yurek: So it's maintaining the standard that's set out—

Mr. David Oakden: These standards would be set out. There would be a fairly lengthy report that would describe what steps they had taken and also what assumptions they had made.

In looking at these numbers, I don't know whether these numbers contain what I would call IBNR or not, which would be an estimate of future claims, or whether they're just raw data. So that would be spelled out in detail.

Mr. Jeff Yurek: Okay. And finally, before I hand it over to Mr. Leone here—you might not have the information with you, but if you can get the information, possibly, could you let us know if an individual by the name of Bill Andrus is actually a member of the Canadian Institute of Actuaries?

Mr. David Oakden: Bill Andrus is not a fellow of the Canadian Institute of Actuaries.

Mr. Jeff Yurek: He's not?

Mr. David Oakden: He's not. I don't believe that he's an associate member either. But if he applied, he would probably be admitted as an associate.

Mr. Jeff Yurek: If he applied?

Mr. David Oakden: If he applied.

Mr. Jeff Yurek: Rob? Mr. Leone?

Mr. Jagmeet Singh: If he applied, he'd be what?

Mr. David Oakden: I said if he applied, he would probably be admitted.

Mr. Rob Leone: Is it my time?

The Vice-Chair (Mrs. Donna H. Cansfield): Yes, it is.

Mr. Rob Leone: Okay. Hi, Mr. Oakden. Thanks for coming in today to talk to us.

I want to perhaps make this conversation a little bit more basic. I think there are a lot of people who have some assumptions about the insurance industry and don't

really know who the players are within it. Can you give us a couple-minute description of what exactly an actuary does and what role they play within the system?

Mr. David Oakden: Yes. An actuary is basically a mathematician-statistician who is also knowledgeable about the insurance business and applies their skills in the insurance base.

There are several types of actuaries. Can I restrict my comments to actuaries working in general insurance or do you want a more general response to your question?

Mr. Rob Leone: I'm happy to have the general insurance answer. That would be sufficient for me. I want to know what role they play, particularly in the auto insurance industry.

Mr. David Oakden: In the insurance industry, actuaries have two primary—well, they have more than two primary functions, but one function is basically to set rates for insurance companies. In performing that function, actuaries look at the raw data, understand the data and use that data to project what the loss costs are going to be. They then look at the expense data to determine what provisions should be included for internal and external expenses, and then look at appropriate profit margins to determine what the premium ought to be. They look at the numbers, they use statistical techniques, and they use forecasting techniques, because often what's happened in the past is not exactly what's going to happen in the future. You have inflation, which, when I started out, was 10% a year, so it was pretty major. Now it's smaller, but it's still there. Whenever you modify the policy, the actuary has to determine what impact those modifications are going to have on the loss that occurs and will use a number of techniques to determine that. So that's one thing an actuary does.

Another important role of actuaries is to comment on the provision for unpaid claims in the company's annual statements. Whenever a claim is filed, an adjuster will typically come up with an estimate as to what that claim is ultimately going to cost. That number is set up as a reserve, which we often refer to as a case reserve. However, there are a number of claims at any given point in time, say on December 31, when they have to file their financial returns, which have not yet been filed and will be filed late, and provision for all those claims has to be made. But in addition, claims that had been filed with estimates on them—if you look at large numbers of those estimates, you typically find that those estimates are inadequate in the total. In fact, it may be that three quarters of them will be excessive, but the ones that are not adequate will end up going up rather substantially. If you look at large numbers of these, you'll find that they aren't adequate. So the actuary really has to determine the amount that an insurance company has to hold. That would be an additional amount to what the case reserves are. Companies are required to put that on their financial statements.

I mentioned that I had worked for OSFI. One of my primary duties was to review these actuary reports and

make sure companies actually had put enough money up for those claims.

Other roles that actuaries play in insurance companies involve risk management. An actuary would look at the risks an insurance company faces and try to make sure that these risks were being dealt with in an appropriate way. In some cases, it's okay just to accept the risk, but in other cases, you can do things to mitigate the risk or diversify the risk, or you can decide that the risk is just so large that you shouldn't accept it. Actuaries play a large role in that space.

Those are the major things. A lot of actuaries get involved in many other non-actuarial jobs because of their knowledge of insurance companies. Those are the three main areas.

Mr. Rob Leone: Right. And you said that actuaries are mathematicians. What's the education that one requires to—

Mr. David Oakden: To become an actuary, you don't have to have a university degree, but it would be the very rare actuary who does not have a university degree. You'd have to go to a four-year university degree. Following that, you have to pass a number of exams. In my day it was 10 exams, but they've now broken it down into smaller pieces and rearranged them. It can be a lot more than that, but it's the same kind of material. It typically takes seven to 10 years, following graduation, to pass those exams. So if you count the university, which is really a necessary part of the training, you're looking at, say, 11 to 14 years to become an actuary. In some cases, it's longer; in rare cases, it's shorter than that.

1650

Mr. Rob Leone: I had no idea it took that long. That was news to me that it takes that long to become an actuary.

Mr. David Oakden: It's a very exacting process.

Mr. Rob Leone: In the educational component of it, you're going to obviously have a background in mathematics, but I'm assuming, then, that folks who want to become actuaries—is there some sort of apprenticeship, mentoring, work practice?

Mr. David Oakden: We have an associate level, and really that's someone who's got a university degree, they've got four or five years' work experience and they've passed a certain number of exams. It was felt that that's a lot of work that they've put into it, so we recognize that by calling those people associates. When people are writing the exams, they're typically working. It's kind of like articling for a lawyer or—

Mr. Rob Leone: That's a long articling. And you say about 10 exams now?

Mr. David Oakden: When I was there, there were 10 exams. Now they've broken it up and there's a lot of little pieces. You could argue that there are 20 exams, but they're all smaller pieces than when I wrote them.

Mr. Rob Leone: It adds up to the same thing.

Mr. David Oakden: When I wrote them, a typical exam would be the equivalent of a couple of university courses.

Mr. Rob Leone: You mentioned adjusters. What's the difference between the role of an actuary and the role of an adjuster in the system?

Mr. David Oakden: An adjuster is an individual who would have a number of claims to handle. He would not be a statistician or a mathematician; he would be a person who would be familiar with what medical claims cost or whatnot.

There are some exams that adjusters can write, but adjusters don't have to have any professional qualifications. But a good adjuster has to really be knowledgeable about medical conditions. He has to have a fair bit of legal knowledge to know how claims might proceed through the court. The adjuster's the one who makes the decision as to whether you settle a claim or whether you fight all the way. He may take advice of a lawyer making that decision, but he's the person who ultimately makes it.

Mr. Rob Leone: When you say there's 11 to 14 years to become a full-fledged actuary, and given how actuaries are pretty central to the insurance industry, my question is, what's the labour market information on the average age of actuaries? Is there going to be a labour market shortage in actuaries? Are you able to find sufficient people who are interested in becoming an actuary?

The reason why I ask that is, I don't think if I asked my children what they wanted to be in life it would be an actuary.

Mr. David Oakden: Well, surprisingly enough, we have a lot of actuaries.

Mr. Rob Leone: We do?

Mr. David Oakden: A number of years ago, there was a Jobs Rated almanac, and it decided once that actuary was the best profession in North America. I'm not sure if I agree with that or not, although I've been very happy in my career as an actuary, but a lot of students looked at that and said, "Hey, I want to become an actuary." If your kids are really into mathematics, actuarial is certainly one of the better careers that they can pursue. But just to point out, there's a number of universities in Canada that have actuarial programs, and I think the University of Waterloo has 500 or 600 students studying actuarial science right now in university—

Mr. Rob Leone: That's incredible.

Mr. David Oakden: Laval has huge numbers—

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much, sir.

Interruption.

The Vice-Chair (Mrs. Donna H. Cansfield): Who doesn't trust me in my role?

Mr. Rob Leone: It's for his own reference.

The Vice-Chair (Mrs. Donna H. Cansfield): Mr. Singh, will you take the lead on this?

Mr. Jagmeet Singh: Yes. Thank you. I'll make sure I start mine at the same time.

Good afternoon, sir.

Mr. David Oakden: Good afternoon, Mr. Singh.

Mr. Jagmeet Singh: Sir, I'm going to ask you some questions about some reports that we have before us. One

of the questions is, there was a report released by GISA recently, and it was a report that was to indicate the profit that the insurance industry is enjoying. My first question is, are you familiar with that special GISA report on profit?

Mr. David Oakden: No, I'm not.

Mr. Jagmeet Singh: Are you aware that it was released, or are you aware of anything around that issue at all?

Mr. David Oakden: I think I've been aware by attending actuarial meetings, but have not had any professional involvement.

Mr. Jagmeet Singh: Okay, no problem. I'm going to refer to some numbers on some documents. I just want to make sure you have a copy of them.

Madam Clerk, do we have a copy of those documents that we initially photocopied? Do we have any more of those?

The Vice-Chair (Mrs. Donna H. Cansfield): You can have my copy.

Mr. Jagmeet Singh: Excellent.

That's not the one I was referring to. It's page 28.

The Vice-Chair (Mrs. Donna H. Cansfield): Page 27/28?

Mr. Jagmeet Singh: Yes, that's it. It looks like this. Do you have an extra one?

Interjection.

Mr. Jagmeet Singh: That's fine, if you can hand him that. That's fine. You can hand him that one.

The Vice-Chair (Mrs. Donna H. Cansfield): You can use mine.

Mr. Jagmeet Singh: We have an extra one, too. That's fine.

The Vice-Chair (Mrs. Donna H. Cansfield): We can proceed?

Mr. Jagmeet Singh: Yes, we can proceed. Thank you so much. I'm just going to take a picture of this one and hand him this one as well. Excellent.

So, sir, I'm going to ask you just—it may not make any sense at the moment. I'm just going to point out what I'll ask you to look at. There's two sheets before you. One has the title "PPV-IR excluding farmers"—no disrespect to farmers, I'm sure. It's page 28, at the bottom of that page.

Mr. David Oakden: Yes.

Mr. Jagmeet Singh: And the other document that should be in front of you has page 14 at the bottom and says, "GISA Financial Information Report, Private Passenger Automobile, Ontario, 2012." Do you see both?

Mr. David Oakden: Yes.

Mr. Jagmeet Singh: Okay. So on the page 28 document where it says, "Claim and adjustment expenses incurred" along the top—it's the seventh column over, going from left to right. It says, "Claim and adjustment expenses incurred."

Mr. David Oakden: Yes.

Mr. Jagmeet Singh: If you follow that down to the total, it has total by year, 2008 to 2012, and that's on the left-hand side.

So my question to you is, if you could note 2012, the number in terms of claim and adjustment expenses incurred is \$6.48 billion.

Mr. David Oakden: Right.

Mr. Jagmeet Singh: Now I'm going to ask you to look at page 14 of the GISA Financial Information Report, and the number there is \$7.74 billion.

Mr. David Oakden: So where's the number?

Mr. Jagmeet Singh: Sorry. It's 2012 and it's net claims and adjustment expenses, which is in the left column, four down, and if you follow that to the total amount, it's \$7.74 billion. So four down on the left and then—

Mr. David Oakden: Oh, 7.74—on the right, you mean?

Mr. Jagmeet Singh: On the right, yes. If you follow that to the right, then the total amount is that amount.

My understanding, and maybe you can—GISA releases a yearly assessment of the claim and adjustment expenses incurred; they release it every year. So they've released it for this year saying that the cost was \$6.48 billion, but in this report it's another number: \$7.74 billion. You'd agree with me that GISA employs very respected and qualified actuaries? You'd agree with me on that? GISA, the General Insurance Statistical Agency, employs qualified and reputable actuaries—

Mr. David Oakden: I'm not aware of that fact, no.

Mr. Jagmeet Singh: Okay. I would say they do. It's a government—it's a national agency, not a government agency. It's a national agency that provides data on claims costs for insurance companies. I'm sure you—

Mr. David Oakden: I wouldn't make that assumption.

Mr. Jagmeet Singh: You would not.

Mr. David Oakden: I would not, no.

Mr. Jagmeet Singh: So in your role in OSFI, were you aware that GISA existed?

Mr. David Oakden: I was aware they existed. I had nothing to do with them.

Mr. Jagmeet Singh: Okay.

1700

Mr. David Oakden: I should point out, OSFI was a prudential regulator, and that term means we were concerned with insurance companies' capital levels and their financial soundness. We were not concerned with their auto insurance policies.

Mr. Jagmeet Singh: Okay. Fair enough.

Mr. David Oakden: And so as long as companies were making money in total and had adequate capital level and good systems in place to ensure their soundness, we didn't spend a lot of time on them.

Mr. Jagmeet Singh: When did you end your involvement with, or did you retire—sorry—from OSFI?

Mr. David Oakden: I retired this year from OSFI.

Mr. Jagmeet Singh: Okay. So your understanding is that OSFI is not overly concerned with the auto insurance product specifically; they're just worried about the overall financial—

Mr. David Oakden: I shouldn't say that. Certainly to the extent that auto insurance in Ontario might become unprofitable or significantly unprofitable, OSFI would be concerned, because it would affect the financial viability of the insurance companies we supervise, and that would be the perspective of our concern.

Mr. Jagmeet Singh: Maybe we'll just focus on what OSFI does, then. So with respect to OSFI's data, one of the issues is that it's financial year versus accident year in terms of the way they track data; is that correct?

Mr. David Oakden: In the OSFI financial statements that are put together, yes, the data is accounting year as opposed to accident year, that's correct.

Mr. Jagmeet Singh: Okay.

Mr. David Oakden: And also I should point out that the OSFI data only contains those companies that are federally registered to—I'm sorry—registered with OSFI. The companies can pursue a provincial registration or a federal—

Mr. Jagmeet Singh: —registration. They have the choice. And OSFI, being a federal entity, deals with—

Mr. David Oakden: —with companies that we regulate, so it doesn't include everybody.

Mr. Jagmeet Singh: That's fair. The one factor is, OSFI data is financial year or accounting year, as you've indicated. The other factor is that OSFI data incorporates reserves in terms of their assessment of the financial stability of a company.

Mr. David Oakden: The OSFI data does include the reserves, correct. And in terms of an accounting year, what you have is really the change in reserves.

Mr. Jagmeet Singh: Fair enough. And are you aware on just a basic level that the GISA data—the difference is that they are based on accident year as opposed to financial or accounting year. Are you aware of that—

Mr. David Oakden: I'm very much aware of the distinction between accident year and calendar year.

Mr. Jagmeet Singh: And are you aware that GISA employs the accident year as opposed to the accounting—

Mr. David Oakden: Yes. Well, that would be the natural way to look at rate filings.

Mr. Jagmeet Singh: I was going to ask you that next. That was my next question. So that would be the natural way to look at rate filings?

Mr. David Oakden: Right.

Mr. Jagmeet Singh: And why would you say that?

Mr. David Oakden: Well, when you look at a calendar year—let's say you got your reserves wrong. As actuaries, I think we do a very good job, but it's impossible to predict the future, and sometimes things unfold very differently than we think they're going to, and if you get the future wrong, then the errors in the past are reported in the current financial statements. If you look at an accident year result, you're taking your best estimate of that accident year to its ultimate level and using that data. So you're not sort of paying for your past sins.

Mr. Jagmeet Singh: That really surmises everything that I really wanted to adduce from you, and that was wonderfully said. I really appreciate that. I was trying to

get to that point and you cut right to the chase, so I appreciate that.

So in assessing—and feel free to answer however you feel appropriate in terms of if this is something within your range or scope or not. Given what you just said about the impact on rate filing, would you agree with me if I was to suggest that for legislators or policy-makers, in determining what decisions we should make with respect to auto insurance, decisions based on—for legislators and policy-making—accident year and profits that are deduced from accident year would give a more accurate picture for legislators to make decisions on policies regarding auto insurance, as opposed to relying on OSFI data, which has a different intention, which is more about the financial stability and security of a company as opposed to the rate filing issue?

Mr. David Oakden: If you want my personal view, I really think you should not get overly concerned with all the different data sources. The rates that companies charge in Ontario must be prepared and an actuary must sign off that the actuary has followed actuarial standards, to the extent that the accident year results reflect better experience. The actuarial standards will force that experience to be recognized in the rates and those rates to be passed along.

But to try to second-guess—now, when you look at numbers—I don't have the pages that would describe exactly what I'm looking at. But if you're looking at the numbers from the statistical report on an accident year basis, you have to add the appropriate level of IBNR onto those numbers. When you look at a calendar year result, it reflects the change in IBNR. So if you have a large IBNR and it changes a little bit, just that change goes into the financial statements. If you're looking at an accident year result, the IBNR—sometimes when I use IBNR, “incurred but not reported,” it also covers the “incurred but not enough reported.” That number can often exceed the reported claims, so the number can be huge. There's a judgment determination in that number, and two actuaries may not agree on that determination.

So, these numbers I'm looking at here: Do they contain an adequate IBNR? Typically, when you're making rates, you would look at several years' worth of data, not just one year's worth of data, to make your decisions.

Looking at the financial statements can be helpful, and looking at accounting statements can be helpful. But these numbers, if they contain an IBNR, it may be one actuary's opinion. I don't see that actuary signing anything, but it could be attached to these 27 pages, if there's another page where there's an actuarial report.

Mr. Jagmeet Singh: Fair enough. The reason why I'm putting this to you is because if we compare—if you look at the page 28 document in 2011 and 2012, you notice that they're both in the \$6 billion, and previous to that, it was in the \$8 billion, so there was a significant reduction in costs. Various institutions, or various agencies, including the IBC, the Insurance Bureau of Canada, have indicated that there has been a significant reduction in claims costs.

When we look at this data, the GISA data, and apply that to assessing the profits, we get a net return on equity closer to 15%, which is quite significant, versus if we use the other figure, which is the \$7.7 billion on page 14 in the document, we get something closer to 7%, so that's almost twice.

It's a significant issue, because when we're assessing the profits of the insurance industry and what should happen with rates, we need to have a clearer picture of what the return on equity is so that we can make the right decisions. We're seeing a spread of more than 7%—almost double, more than double. That's going to significantly impact our ability to make decisions.

Mr. David Oakden: There's one issue here, and I'm not sure how it has been determined and how you've gotten that return, but these claim costs may not include internal adjustment expenses, so they need to be included.

I don't have the verbal description as to exactly what's behind these numbers and how they're used, but I think that if you were to hire a consulting actuary and ask them to assess the return, based on these numbers, they could prepare an independent opinion for you, if that was—

Mr. Jagmeet Singh: Thank you very much; I appreciate that. I'm sorry, because we're running out of time, so my last question is—I'm going to put an assertion to you, and tell me your response to that. We assert that the GISA claims data is a better source of data than OSFI claims data, because it is cleaner and doesn't reflect the reserve policies of the companies, which, at least in part, sometimes use reserves for tax purposes. Do you agree with that overall, the sentiment of that?

Mr. David Oakden: The last comment on tax purposes, I don't agree with, but certainly the accident year data would be better for rate-making. The OSFI data is not appropriate for rate-making.

Mr. Jagmeet Singh: Okay. Thank you very much.

The Vice-Chair (Mrs. Donna H. Cansfield): Actually, you had 18 seconds. I was kinder to you than you were to you.

Mr. Jagmeet Singh: Thank you.

1710

The Vice-Chair (Mrs. Donna H. Cansfield): Ms. Damerla?

Ms. Dipika Damerla: Thank you, Chair. Thank you, Mr. Oakden, for coming. One of the advantages of going last is that you get to hear all of the other questions. I have to say that my colleagues did a great job in covering off all of the questions that I might have asked you, so I have no questions for you. Thank you so much.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much, Mr. Oakden, for joining us this afternoon and for your patience and understanding as we left you for a little while and wandered off to the Legislature. We appreciate it.

Mr. David Oakden: Sorry. Would you like this document that summarizes the reserved roles—

The Vice-Chair (Mrs. Donna H. Cansfield): Yes, please, and then we can distribute it to everyone.

Ms. Dipika Damerla: Chair?

The Vice-Chair (Mrs. Donna H. Cansfield): I have an agenda, if you'll recall, Ms. Damerla, that I had read out before, and I'm going to go back to that agenda.

COMMITTEE BUSINESS

The Vice-Chair (Mrs. Donna H. Cansfield): On the agenda, first off, Mr. Yurek had indicated a motion—as I said, legislative research; next Wednesday; and you would have a motion as well.

Mr. Yurek, you have a motion you'd like to present?

Mr. Jeff Yurek: Yes, please.

The Vice-Chair (Mrs. Donna H. Cansfield): Do you have copies, sir?

Mr. Jeff Yurek: Yes.

The Vice-Chair (Mrs. Donna H. Cansfield): Could we distribute those copies so everybody has one?

Mr. Jeff Yurek: I believe they're all the same.

Mr. Jagmeet Singh: Chair, I have a question for you.

The Vice-Chair (Mrs. Donna H. Cansfield): Yes, sir.

Mr. Jagmeet Singh: During the course of the Aviva CEO's deputation, he had indicated that he would undertake to provide some information.

The Vice-Chair (Mrs. Donna H. Cansfield): That's correct.

Mr. Jagmeet Singh: What is the process by which we would follow up with that?

The Vice-Chair (Mrs. Donna H. Cansfield): We'll ask the Clerk to do that. She will follow up, and he will have the information for us as soon as possible.

Mr. Jagmeet Singh: Thank you.

The Vice-Chair (Mrs. Donna H. Cansfield): Mr. Yurek, would you like to move your motion?

Mr. Jeff Yurek: Yes. Thank you, Chair. I move that the Standing Committee on General Government request from the Ministry of Finance all research documents, electronic or otherwise, pertaining to the issue of the proposed 15% fee reduction to auto insurance rates, that were released to, or authorized by, the ministry between February 1, 2013, and November 25, 2013; and that these be filed with the committee in electronic format by 2 p.m. the day after this motion passes.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you, Mr. Yurek. There is an error in your speaking. You indicated "or authorized by." It says "or authored by."

Mr. Jeff Yurek: Oh, did I misread that? I'm sorry. It's "authored by" the ministry. Excuse me.

The Vice-Chair (Mrs. Donna H. Cansfield): It is so corrected. Thank you very much. Any comments?

Ms. Dipika Damerla: Five-minute recess.

The Vice-Chair (Mrs. Donna H. Cansfield): Pardon me?

Ms. Dipika Damerla: Seeking a five-minute recess.

The Vice-Chair (Mrs. Donna H. Cansfield): Yes, a five-minute recess. Is that fine with everyone? It's a quarter after 5, roughly. So at 20 after 5, we'll be back. Five-minute recess.

The committee recessed from 1713 to 1716.

The Vice-Chair (Mrs. Donna H. Cansfield): I'll call the meeting back to order, please. Mr. Yurek, would you have any comments to your motion?

Mr. Jeff Yurek: Yes, Chair. I brought forth this motion to ensure that we have all the data that we can look at. Seeing the amount of controversy this 15% fee reduction has caused within the industry, how much promise it is showing for the ratepayers of our province and how everyone is clamouring for a 15% fee reduction, including myself—I would love a 15% fee reduction—I think it's only fair that the committee itself, before it releases its report, can take a look at what exactly the government has done to prepare and to ensure that the people of the province of Ontario obtain their 15% rate reduction and, in fact, to ensure the integrity of the industry and ensure that those who are injured in accidents are able to be treated in a timely manner and get back into the workforce and return to their normal, everyday lives they had prior to an accident. We just want to make sure that there are proper things in place so that we know, as a committee and as members of our individual parties, that the government has taken the correct steps and given us all the information so that the decision that has been made in the last budget is, in fact, the right decision to be made and we're heading down the right street.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you, Mr. Yurek. Mr. Del Duca.

Mr. Steven Del Duca: Reading this motion, I don't think that, in principle, our side or our caucus has any objection to the general thrust.

I would make a comment: When I read the last line in this particular motion, it does suggest that if the motion passes momentarily, the Ministry of Finance would have until—if I'm reading it correctly—2 o'clock tomorrow afternoon to provide everything that you're asking for in this. I'm just wondering if the member has contemplated the logistical challenge of that. But again, in principle, we don't object to the request.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you. Mr. Leone.

Mr. Rob Leone: I am new to this committee so I don't really understand the nuances of this particular topic, but I do think, as Mr. Yurek has pointed out, that it is important to have, in the course of outlining and preparing a report, particularly on this matter, a matter that I know is of importance to the public—I think all parties would be satisfactorily saying that it is important to the public. I believe that the report-writing is taking place soon in this committee, and if the timing of what Mr. Del Duca has suggested is off, perhaps I'll propose an amendment to change the time from 2 p.m. the day after the motion passes to 2 p.m. two days after the motion passes. If that would be satisfactory, I would like to move that amendment, Chair.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you. We have an amendment on the floor that indicates that instead of 2 p.m. the day after, it would be amended to two days after this motion passes. Any comments?

Mr. Rob Leone: May I speak to that amendment?

1720

The Vice-Chair (Mrs. Donna H. Cansfield): Yes, you may speak to the amendment.

Mr. Rob Leone: You know, we want to be quite reasonable with what we're suggesting in this committee, and I do appreciate Mr. Del Duca's concern that the timing is not sufficient. One day is probably very tough, given that the ministry is likely to receive this request at 9 a.m. tomorrow, given that we're past the end of the business day. So it's not unreasonable, I don't think, to suggest that we move the time an extra day so that the ministry has ample time to prepare the documents that we're looking for.

Again, Madam Chair, this is about looking at the scope of a very important issue of public importance. Auto insurance is something that a lot of people talk about in my riding; I'm sure that my riding isn't unique when it comes to that. Given that our capable critic, Mr. Yurek, has been on this file for quite some time, I know that these issues get quite complex.

The fact that an actuary has to take 11 to 14 years to actually finish his educational requirements is, frankly, something I learned today for the very first time—

Mr. Steven Del Duca: Chair, he's not speaking to the motion.

The Vice-Chair (Mrs. Donna H. Cansfield): Yes, I understand. He's just about finished. Thank you.

Mr. Rob Leone: Yes. I'm sorry. I'll wrap up as quickly as possible.

Anyway, getting back to the point here, we are wanting to accommodate what Mr. Del Duca had suggested. I think we should move the timing of the release for one more day, and hopefully that will be satisfactory to the members of this committee and to the ministry.

The Vice-Chair (Mrs. Donna H. Cansfield): Thank you very much, Mr. Leone. Any further comment on the amendment to the motion? Ms. Damerla.

Ms. Dipika Damerla: I'd like the question to be called.

The Vice-Chair (Mrs. Donna H. Cansfield): We don't call questions in committee. What we do is, we debate and then, when everybody's had sufficient debate, we can say we've had sufficient debate and then we can have a vote.

We have an amendment on the floor. Any further comment to the amendment?

Mr. Jim McDonell: Yes, Chair. I'd like to request a 20-minute recess.

The Vice-Chair (Mrs. Donna H. Cansfield): You'd like a 20-minute recess.

Mr. Jim McDonell: To discuss this.

The Vice-Chair (Mrs. Donna H. Cansfield): I'd like a discussion on the 20-minute recess. Is everyone in favour?

Ms. Dipika Damerla: I think it's unreasonable.

The Vice-Chair (Mrs. Donna H. Cansfield): You're not in favour of a 20-minute recess.

Interjections.

The Vice-Chair (Mrs. Donna H. Cansfield): You're right. There is a motion on the floor, so we now have a 20-minute recess. All those in favour of a—

Mr. Jim McDonell: —before the vote just to discuss this?

The Vice-Chair (Mrs. Donna H. Cansfield): We actually have a motion on the floor.

Mr. Jim McDonell: Before the vote?

Mr. Rob Leone: We are entitled to a 20-minute recess.

The Vice-Chair (Mrs. Donna H. Cansfield): Yes, right. I've asked if there's any further questions. So I'm asking for a vote on the 20-minute recess. Is there any—

Interjections.

Ms. Dipika Damerla: Chair, I think it's unreasonable—

Interjection.

Ms. Dipika Damerla: —20 minutes. Maybe five minutes.

Interjection.

Ms. Dipika Damerla: Yes, we can, but I'm just proposing.

The Vice-Chair (Mrs. Donna H. Cansfield): It's not a voting item. We're just trying to find some consensus on the amount of time.

Ms. Dipika Damerla: We think 20 minutes is too long.

Mr. Rob Leone: We're entitled to 20 minutes.

The Vice-Chair (Mrs. Donna H. Cansfield): You've moved a 20-minute recess. According to the Clerk, you have to have full agreement on that 20 minutes. I apologize because I misunderstood. I was correct in the first place. There's no consensus, so we go to a vote. All those in favour of a 20-minute recess?

Mr. Rob Leone: We have asked for a 20-minute that we're entitled to according to the standing orders.

The Vice-Chair (Mrs. Donna H. Cansfield): I don't disagree, but because there's no consensus, the Clerk is saying that we have to have a vote—

Interjection.

The Vice-Chair (Mrs. Donna H. Cansfield): I have to put the question first and then you can ask for a 20-minute recess.

Mr. Rob Leone: I'm ready.

The Vice-Chair (Mrs. Donna H. Cansfield): There is an amendment on the floor. There's no further discussion on the amendment. I'm going to call for a vote on the amendment.

Mr. Rob Leone: Twenty-minute recess.

The Vice-Chair (Mrs. Donna H. Cansfield): Yes, there will be a 20-minute recess.

The committee recessed from 1726 to 1746.

The Vice-Chair (Mrs. Donna H. Cansfield): Ladies and gentlemen, our 20 minutes are up and we have five minutes before we have to go in. There's no further discussion on the amendment to the main motion, so I will take the vote on the amendment. All those in favour of

the amendment to the main motion? All those opposed? Seeing none, the amendment carries.

All those in favour of the main motion—or further discussion, I should ask first. Further discussion on the main motion?

Interjection.

The Vice-Chair (Mrs. Donna H. Cansfield): No, I'm going to do this very quickly, if I can get it through. Any further discussion on the main motion? Seeing none, all those in favour of the main motion—

Mr. Rob Leone: Twenty-minute recess?

Interjections.

The Vice-Chair (Mrs. Donna H. Cansfield): I'm sorry. He's asked for a 20-minute recess.

Ms. Dipika Damerla: But we already had our hands up—

The Vice-Chair (Mrs. Donna H. Cansfield): But I hadn't taken the vote, so we have a 20-minute recess, and let's go and vote.

The committee recessed from 1748 to 1803.

The Vice-Chair (Mrs. Donna H. Cansfield): The meeting is adjourned.

The committee adjourned at 1803.

CONTENTS

Monday 25 November 2013

Auto insurance review.....	G-377
Insurance Bureau of Canada	G-378
Mr. Ralph Palumbo	
Ms. Barb Sulzenko-Laurie	
Aviva Canada.....	G-385
Mr. Greg Somerville	
Ms. Karin Ots	
Canadian Institute of Actuaries	G-394
Mr. David Oakden	
Committee business.....	G-400

STANDING COMMITTEE ON GENERAL GOVERNMENT

Chair / Président

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Ms. Dipika Damerla (Mississauga East–Cooksville / Mississauga-Est–Cooksville L)

Mr. John Fraser (Ottawa South L)

Mr. Michael Harris (Kitchener–Conestoga PC)

Ms. Peggy Sattler (London West ND)

Ms. Laurie Scott (Haliburton–Kawartha Lakes–Brock PC)

Mr. Jeff Yurek (Elgin–Middlesex–London PC)

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Mr. Andrew McNaught, research officer,
Research Services

CA 20 N
XC 16
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G-26

G-26

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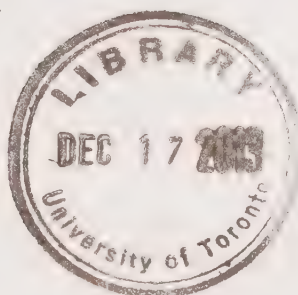
Mercredi 27 novembre 2013

Standing Committee on General Government

Automobile insurance review

Comité permanent des affaires gouvernementales

Examen de l'assurance-
automobile



Chair: Grant Crack
Clerk: Sylwia Przedziecki

Président : Grant Crack
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Wednesday 27 November 2013

Mercredi 27 novembre 2013

The committee met at 1600 in committee room 2.

AUTOMOBILE INSURANCE REVIEW

The Chair (Mr. Grant Crack): I'd like to call the meeting to order. Ms. Damerla?

Ms. Dipika Damerla: Chair, as you may know, and the Clerk knows, we've handed in a motion that we'd like to get on the agenda. The first opportunity that I can get, I'd like to move it.

The Chair (Mr. Grant Crack): Thank you. I believe, Madam Clerk, we have to start by dealing with the motion that's on the floor. I believe there was a 20-minute recess at the last meeting, so I will be calling for the vote without further discussion. Then we'll follow the agenda and go to report writing, and I'll have a question about that. We can perhaps discuss your motion at the end. I'll make note of that motion.

Ms. Laurie Scott: At the end of report writing?

The Chair (Mr. Grant Crack): Yes. There was a motion put forward by Mr. Leone at the last meeting. Sorry, it was Mr. Yurek. Since there's no discussion, I'll call for the vote. Those in favour, as amended? Those in favour? Opposed? The motion is carried.

I guess we'll move to report writing at this particular time. I can say that we've had—

Ms. Dipika Damerla: Chair?

The Chair (Mr. Grant Crack): Ms. Damerla?

Interjection.

The Chair (Mr. Grant Crack): Would that be the consensus of the committee? We have a no. From what I understand—

Ms. Dipika Damerla: Is it possible to vote on whether we can have a motion?

Interjections.

The Chair (Mr. Grant Crack): I don't know if it needs unanimous consent. I believe it would need the consensus of the majority of the committee. That's my understanding.

Interjection.

The Chair (Mr. Grant Crack): There would have to be unanimous agreement, from what I'm being told, to deal with it at this particular point. So I'll make my ruling that we'll continue with the report writing. Following that, we will deal with your motion.

We've had six days of public hearings on the auto insurance industry issue, so I would like to perhaps ask the legislative counsel to walk us through—do we need a motion? Sorry. Is it the will of the committee to do this in closed session or in open session, the report writing? Is there any opposition to having it closed? There's none.

We'll have a two-minute break and then we will go into closed session for report writing.

The committee continued in closed session from 1604 to 1753.

COMMITTEE BUSINESS

The Chair (Mr. Grant Crack): Ms. Damerla.

Ms. Dipika Damerla: I move that the Clerk, in consultation with the Chair, be authorized to arrange the following with regard to Bill 105, the Supporting Small Businesses Act, 2013:

(1) One day of public hearings during the committee's regularly scheduled meeting time on Wednesday, December 4, 2013;

(2) One day of clause-by-clause consideration during the committee's regularly scheduled meeting time on Monday, December 9, 2013;

(3) Advertisement on the Ontario parliamentary channel, the committee's website and Canada NewsWire;

(4) Witness presentations be scheduled as the requests are received, on a first-come, first-served basis;

(5) That, in the event that all witnesses cannot be scheduled, the Clerk of the Committee provide the members of the subcommittee with a list of requests to appear and that the subcommittee provide the Clerk of the Committee with a prioritized list of witnesses to be scheduled;

(6) Witness presentations be scheduled in 12-minute time slots, with presenters provided up to three minutes for their presentation, followed by up to nine minutes for questions from committee members, divided equally between caucuses;

(7) A deadline for written submissions be set for 5 p.m. Wednesday, December 4, 2013; and

(8) A deadline for filing amendments with the Clerk of the Committee be set for 12 noon on Friday, December 6, 2013.

Following completion of the committee's consideration of Bill 105, the Clerk, in consultation with the Chair,

be authorized to arrange the following with regard to Bill 71, the Protecting Child Performers Act, 2013:

(1) One day of public hearings during the committee's regularly scheduled meeting time on Wednesday, December 11, 2013;

(2) Advertisement on the Ontario parliamentary channel, the committee's website and Canada NewsWire;

(3) Witness presentations be scheduled as the requests are received, on a first-come, first-served basis;

(4) That, in the event that all witnesses cannot be scheduled, the Clerk of the Committee provide members of the subcommittee with a list of requests to appear and that the subcommittee provide the Clerk of the Committee with a prioritized list of witnesses to be scheduled;

(5) Witness presentations scheduled in 20-minute time slots, with presenters provided up to five minutes for their presentation, followed by up to 15 minutes for questions from committee members, divided equally between caucuses.

The Chair (Mr. Grant Crack): Thank you very much. Debate? Further discussion?

Mr. Jeff Yurek: What goes on with the Pan Am Games review? Does this bump it?

The Chair (Mr. Grant Crack): What's the committee's wish with regard to that? Ms. Damerla.

Ms. Dipika Damerla: If we pass this, then we get on to Pan Am business; if we don't, then this becomes the first order of business, and then we move to Pan Am once this is taken care of.

Mr. Jeff Yurek: Is Pan Am a one-day committee review? That's what I'm trying to figure out. I know that Pan Am is the next order of business, but does this bump Pan Am from committee? Is this what this motion is doing?

Ms. Dipika Damerla: Sorry; can you repeat that, Mr. Yurek?

Mr. Jeff Yurek: Does this bump the Pan Am review from what we're doing?

Ms. Dipika Damerla: What were the Pan Am dates? I'd have to check.

Ms. Laurie Scott: If I can interject here, the review of the Pan Am Games was to start on Monday, and there was nothing else. We were doing that for the rest of the session. This essentially doesn't include Monday, from the look of it. I guess Pan Am is on Monday, if I can interpret this, but you guys, the technical experts, please feel free to jump in.

Interjections.

Ms. Laurie Scott: So it's only one day, for four hours on Monday, as this stands. Then, this motion that we're entertaining right now changes the schedule after Monday. Is that a correct summary of what's happening?

The Chair (Mr. Grant Crack): Ms. Damerla?

Ms. Dipika Damerla: Chair, I think part of it is that we've been trying to move Bill 105 for a long time. We tried to move it as well before Pan Am, but we couldn't, so our guess is that we'd like to proceed in this fashion and just have a recorded vote on it. Just vote on it.

The Chair (Mr. Grant Crack): Any further discussion?

Mr. Jeff Yurek: Chair, I understand what the government is saying, but we have moved in the House to move Bill 105 to another committee that has no work to do, and it has been rebuffed. There is plenty of work to be done, and with the Pan Am Games just over a year away, pushing a review off further is a concern to the opposition party when we're trying to ensure transparency and accountability with regard to the Pan Am Games.

The Chair (Mr. Grant Crack): Any further discussion? Ms. Damerla.

Ms. Dipika Damerla: Chair, I guess we can agree to disagree and just go for a vote.

The Chair (Mr. Grant Crack): Any further discussion? Mr. Leone.

Mr. Rob Leone: Chair, I'm a little bit mystified, I have to admit. I thought that the whole push on the part of the government was to create a new era of openness and transparency. A new hashtag, #OpenGovernment—with the N—was included in a very flashy press release and media availability by the Premier. At the end of the day, what we're looking for with respect to Pan Am—this motion seems to be against exactly what the Premier has suggested with respect to openness and transparency.

My criticism of what's transpiring here is that what we're trying to do is sidetrack a very important investigation on the Pan Am Games, a games that we have lots of questions on with respect to costs. We're now in the area of \$2.5 billion with respect to the Pan Am Games. This is a very, very important aspect and, like my colleague Mr. Yurek has suggested, we have an opportunity, and we put a motion in the House, to move the hearings on Bill 105 to another standing committee of this Legislature so that we wouldn't sidetrack that investigation. The government would get Bill 105 on the table and through committee, and I think it would appease what you want, which is to push Bill 105, and what we want, which is to say the Pan Am Games is important. The people have lots of questions with regard to the costs of the games. We have various budgets that have been transpiring.

We have a motion before us that talks about looking at and examining Bill 105 instead of a thorough investigation of the Pan Am Games and to push that further behind. That creates a significant problem for myself as a representative of the opposition, whose job is to be mindful and watchful of what government is doing. In order to do that job effectively, we need the full array of information at our disposal to get to the bottom of what has transpired with the Pan Am Games.

I will say that, while it's important that we talk about various pieces of legislation, I noticed that there is a push to get the small business act through committee. This motion also talks about Bill 71, which is the Protecting Child Performers Act, which is a piece of legislation that has been presented by a private member of the New Democratic Party.

These are important bills. We're not going to dispute the fact that they are important, but we had an order of

precedence in this committee of how we were going to deal with these issues. I am concerned that we are looking at different things that are beyond the purview of the order of business that we've established. I think it's something that the public want us to focus on; really, what we're doing here is sidetracking from what we've previously established. I know that there are lots of documents that are coming forward on an ongoing basis with respect to the Pan Am Games. It will be pertinent to continue with those discussions.

Bill 105 certainly is an important piece of legislation. I know the government wants to talk about how we can help small businesses. We obviously have some concerns with the piece of legislation brought forth—how it's also raising taxes for businesses, and the net effect that would have on job creation in the province—and we want to have those discussions, but I don't think those discussions should happen or take precedence—

The Chair (Mr. Grant Crack): Sorry to interrupt, Mr. Leone, but it is after 6 o'clock, so we can continue this debate on Monday.

I just need a little bit of direction from the committee. We do have two delegations, two witnesses, for next week. Is it the wish of the committee to schedule them for next Monday, or—

Ms. Dipika Damerla: Chair, I do have a point to make, which is that my understanding is that, since we weren't able to finish with this motion, it'll become the first order of business on Monday. I do want to say that on Monday we would be doing Pan Am, because this is scheduled for the Wednesday, but the more time we spend on this, the more it eats into the Pan Am time. I just want to confirm that this will be the first order of business, because that's what happened the last time.

The Chair (Mr. Grant Crack): Yes, this motion is on the floor. It will be the first order of business. I just need some direction for the Clerk: Depending on how long the debate could be, do we want to schedule these two particular individuals on Monday?

Mr. Rob Leone: Chair, I'll be very clear: My interest is in having the Pan Am hearings take place in this committee, in full, on Monday, so I would say that we need those people ready to go.

I do expect that there will be some discussion about this, but I would urge the withdrawal of this motion, so that we can actually focus on the Pan Am Games.

The Chair (Mr. Grant Crack): Okay, thank you very much. It's after 6 o'clock. We have to adjourn. We shall deal with this first item of business on Monday. Thank you very much, everyone. Have a good evening.

The committee adjourned at 1803.

CONTENTS

Wednesday 27 November 2013

Automobile insurance review	G-403
Committee business	G-403

STANDING COMMITTEE ON GENERAL GOVERNMENT

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G-27



G-27

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Second Session, 40th Parliament

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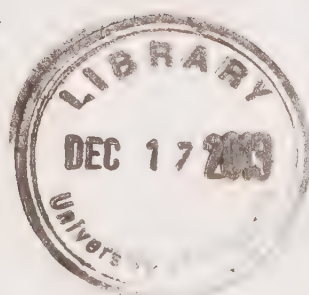
Lundi 2 décembre 2013

Standing Committee on General Government

Pan/Parapan American
Games review

Comité permanent des affaires gouvernementales

Étude portant sur
les Jeux panaméricains
et parapanaméricains



Chair: Grant Crack
Clerk: Sylwia Przedziecki

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Monday 2 December 2013

Lundi 2 décembre 2013

*The committee met at 1420 in committee room 2.*PAN/PARAPAN AMERICAN
GAMES REVIEW

The Chair (Mr. Grant Crack): Good afternoon, everyone. It's certainly a pleasure for me to call this meeting to order and provide some details as to how this afternoon is going to proceed.

I believe a motion was passed last week that we will be entertaining a witness for a five-minute opening statement, followed by a 20-minute round of questioning, then followed by a subsequent 10-minute round of questioning, for a total of 95 minutes. Of course, we will be starting with the third party, as they are the ones who requested the meeting.

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS LOCAL 105

The Chair (Mr. Grant Crack): At this time, I would like to welcome, from the International Brotherhood of Electrical Workers, IBEW Local 105, Mr. Lorne Newick, business manager. Welcome, sir.

Mr. Lorne Newick: Thank you.

The Chair (Mr. Grant Crack): If you'd state your name for Hansard, you have up to five minutes, and then we will begin the rotation. Go ahead, sir.

Mr. Lorne Newick: I'd like to start by thanking the committee for welcoming me here this afternoon to give me the opportunity to speak. My name is Lorne Newick. I'm the business manager of International Brotherhood of Electrical Workers Local 105 in Hamilton.

The purpose of my visit this afternoon is twofold, but I'll start off with—I'd just like to express some concerns over the Ontario Sports Solutions intent to circumvent the Ontario Trades Qualification and Apprenticeship Act, also known as the TQAA. The projects I'd like to discuss are the Pan Am soccer stadium, which is located in Hamilton, Ontario, and the velodrome complex, which is in Milton, Ontario.

There were proposed changes to the electrical scope on these two projects that I felt would jeopardize workers' safety as well as public safety. The Ontario College of Trades and the Ministry of Labour are very specific that any person carrying out electrical work in the province of Ontario is required by law to be a member of the Ontario College of Trades.

As most of you may know, or may not, Ontario Sports Solutions is a joint venture with two parties: Kenaidan Contracting Ltd. and Bouygues Building Canada. Kenaidan is an Ontario contractor. They've been in business since 1974 in the province of Ontario, so I would think that they certainly should be aware of the legislation in place that governs the assignment of work in relation to the compulsory trades in the province.

Bouygues, on the other hand, is an offshore construction company—an international company, I might mention. They're based out of Paris, France. They may or may not know Ontario labour law, but, in my opinion, if Bouygues is intending to perform work in the province of Ontario, then they certainly must comply with the rules and standards of the province.

The work in question is electrical work that would typically be carried out by electricians and apprentice electricians. The intent here was to assign some of the scope to labourers, who would be unqualified and unskilled in these tasks.

The work in question has yet to commence. What I would like to see today is—let me back up just a minute to mention that I'm not here to change the current legislation that's in place. The current legislation works and has worked for years and years. I just would like to see the people, those who are responsible, uphold and enforce the legislation that is already in place. I'd like to have a commitment from the Pan American and Parapan American Games committee that these construction projects are carried out in full compliance with the Ontario College of Trades and the Trades Qualification and Apprenticeship Act guidelines. And further to that, that the assurance of worker and public safety are put in the forefront on these projects. Thank you.

The Chair (Mr. Grant Crack): Thank you very much, sir. Right on time. So we'll start, I believe—MPP Miller, will you be commencing?

Mr. Paul Miller: Thank you, Mr. Chair. Mr. Newick, glad to have you down here today. Welcome, sir.

My first question would be: Would you outline the process that you went through with Clairmont Electric to bid on the Pan Am Games job?

Mr. Lorne Newick: My role as the business manager is to work with electrical contractors in Local 105's jurisdiction to try and secure work for the membership of 105. What I did is, I set up meetings with representatives from Bouygues Building Canada, which is ONSS, and

some of the local contractors' association contractors to discuss and possibly bid on the work at the two projects.

Mr. Paul Miller: Okay. It was your understanding at the time that Clairmont Electric had won the contract, but now, along with the Electrical Contractors Association of Ontario, apparently they're in litigation. What do you know about the process that could have led to this legal action?

Mr. Lorne Newick: One of the flags that went up—it was approximately about a week after the tendering process had ended and the job had closed, as they say. Clairmont Electric was contacted by Bouygues and were told that they had the low bid, for the stadium project at least. They were invited to the site to start discussing mobilization and scheduling for the project. Meetings took place at the site in Hamilton, between Clairmont and Bouygues. It seemed like things were moving forward. About roughly three weeks, I would say, after the tendering closed and a few meetings had taken place, Clairmont was once again contacted by Bouygues, requesting that they review the scope of the electrical work on that project and submit a new price on the revised scope.

Clairmont, being a signatory to the IBEW, is locked into principal agreements. Also, as a contractor in the province, they are obligated to follow guidelines that are set up and regulated by the Ministry of Labour and by the College of Trades. The work in question was work that fell under the College of Trades' definition of an electrician, so Clairmont subsequently could not agree to taking all the scope of work that Bouygues wanted them to take out of their contract. By doing so, they would be crossing lines and basically breaking the law to agree to taking out work and allowing labourers to perform work that was clearly laid out as electricians' work.

1430

Mr. Paul Miller: So Clairmont was very concerned at the time about the scope in job changes and what fell under the auspices of what an electrician does and what's part of his job description. They were tinkering with what an electrician can do, on the edges of his area, obviously having a negative impact and possibly having individuals doing the work who are not qualified. There could possibly have been some problems with the main structure at the stadium from an electrical perspective. Would that be fair?

Mr. Lorne Newick: Some of the equipment they were recommending be installed by labourers included light fixtures; suspended transformers; underground duct bank, which needs to be installed correctly as well; conduit systems. Again, it's all electrical—

Mr. Paul Miller: It's my understanding that, after the bidding process had closed, Clairmont had been verbally told twice they had gotten the contract. They had put out a considerable amount of money in architectural design, blueprints—putting aside other work to take on this major project, which went by the wayside because they weren't awarded it.

It's my understanding the company that did get in, in Ancaster, was not part of the original bidding list. They

were not part of the final tender, and they came in later; is that correct?

Mr. Lorne Newick: Yes, that's correct. The company that's been awarded the work and is on site now, as far as I understand, was on the original bid list along with probably half a dozen others. But when the tenders actually closed, Clairmont and two other contractors were told that they were the only three that were closing the project electrically. The company that's there now working was on the original bid list and was taken off of the bid list. When I questioned why they were removed from the list, I was told that they couldn't secure bonding for a project that size, so they were taken off the list.

Mr. Paul Miller: Originally the Ancaster company was removed from the list because they couldn't secure bonding?

Mr. Lorne Newick: That's right.

Mr. Paul Miller: And they ended up with the contract?

Mr. Lorne Newick: Yes. They have since—

Mr. Paul Miller: That's interesting; after the bidding had closed and Clairmont had already achieved what they thought was the job.

The tendering process, there's obviously been a problem there. I remember talking to Mr. Troop, and he told me at the time, in my office and in a meeting, that they were going to use local construction people as much as they could, and they weren't going to go offshore; they weren't going to go outside of Canada. Do you believe that we have the expertise and the ability to have handled anything that was thrown at us at that stadium, and we didn't have to go offshore?

Mr. Lorne Newick: Absolutely. If you take a look around the country, we absolutely have the expertise. I would say, on a world scale, Canadian tradesmen are probably some of the highest trained and carry some of the best skill sets in the industry. Absolutely, Canadian labour is certainly worthy of accomplishing a stadium build or any type of sports complex, as far as I'm concerned.

Mr. Paul Miller: Do you feel that the final tender awarded to the Ancaster company was awarded possibly under the change of scope that suited the French company and maybe reduced the electrical regulations and standards of the province? The minister stands up every day and says that everything's on target, everything's going to come in under budget and every regulation is being met. Do you feel that's a fair statement by the minister: Everything's on budget, and it's not going to cost more?

Mr. Lorne Newick: I don't have that knowledge to say that it's on budget or on time. I'm not privy to that information. I certainly hope it is.

Back to your original question about the impact that this change in scope had on the project: I believe it did play a part in that the contractor that was originally unable to secure bonding—I think it probably had an impact on his ability to do so, which led to a change in the assignment of the work.

Mr. Paul Miller: I believe Mr. Andrew Smerek is the electrical coordinator in charge of electrical and mechanical for Bouygues, a French company. It's my understanding that he sent an email to Chubb security that he did not want unionized labour doing the work on security systems, which is part of the electrical package. Would that be correct?

Mr. Lorne Newick: I was forwarded that email by the owner of Clairmont Electric. Clairmont Electric was intending to use someone who specialized in security systems; that was Chubb security. They subbed that portion of the electrical package to Chubb. Chubb submitted the proposal directly to Bouygues; Bouygues replied that they were looking for a non-union contractor to undertake that component of the electrical package, that they did not want union contractors to be bidding on that work.

Mr. Paul Miller: So this guy did not want the best-trained people in the world; he wanted to go another route—very interesting.

This doesn't end here on the tendering process. Electrical is divided into two things. It's divided into electricians, and then you have instrumentation guys. They're the guys who do the high-end boards and things like that. It's my understanding that APCI Communications from Burlington bid on the stadium; they had been told twice verbally by this Mr. Smerek that they had the contract for the bidding process, that they had attained it. Then all of a sudden, APCI gets a letter, after they put out considerable finances getting set up and ready for this major project, saying that they were no longer assigned to that project. Is that correct?

Mr. Lorne Newick: I didn't work as closely with APCI as I did with Clairmont. But yes, I did have a conversation with the owner of APCI, and he did allude to the fact that he was given verbal confirmation that they were going to be doing the work, and within a few weeks, the dialogue, the correspondence, dropped off, and he was finally told that he wouldn't be performing work on that project.

Mr. Paul Miller: It's my understanding that this major project, part of the electrical set-up for the whole stadium, also went to a French company. Is that correct?

Mr. Lorne Newick: That's what the owner of APCI told me. I can't confirm it, but that's his information, yes.

Mr. Paul Miller: I'm very concerned about that. Mr. Troop told me that we were going to use local people, local trades, to do this project. Here we have all the electrical work—well, the Ancaster company is there now. The Ancaster company, I believe, is non-union, correct?

Mr. Lorne Newick: Yes.

Mr. Paul Miller: Okay. Now, I believe that the instrumentation part of it is still being done by France. This is pretty scary, when Mr. Troop told me that they were going to use Canadian people to do all these projects throughout Ontario.

Do you feel that the tendering process has had a negative impact on unionized electrical workers in the greater Hamilton area?

Mr. Lorne Newick: It most certainly has. That would have been a very high-profile job, approximately 50,000 to 60,000 man-hours worth of work on that project.

Mr. Paul Miller: So 60,000 man-hours gone overseas. Isn't that interesting?

Mr. Chairman, I think I will continue later in the 10 minutes. But I can frankly say that this is not the first contractor that has come to me, or unionized workers that have come to me, with complaints about the tendering process throughout this province on the Pan Am/Parapan Am Games. It's very interesting that a lot of these projects are being awarded overseas, when Mr. Troop told me it would be Canadian workers doing the work. I'm certainly going to pursue this, and I want more answers. Maybe down the road, we can talk to the Pan Am committee and find out what exactly is going on here, because it has really upset a lot of good, well-known, solid companies in our area that are wondering what's happening here. Thank you very much.

1440

The Chair (Mr. Grant Crack): Thank you, Mr. Miller. We'll move to the government. Ms. Damerla.

Ms. Dipika Damerla: Thank you, Chair. Thank you, Mr. Newick, for joining us today. I'm going to start by asking a few general questions, if you don't mind.

I understand that the city of Hamilton, the federal government and our provincial government are all involved in funding the construction of these facilities. In fact, the federal government is the senior partner when it comes to the infrastructure build. It is also my understanding that as a funding partner to this project, the city of Hamilton is required to abide by the labour agreements that have been put in place by the city of Hamilton.

As well, because this is such a big project involving the federal government and the provincial government, there's a significant amount of monitoring to ensure that the work that is being carried out is being done by accredited workers and that the work is performed in a safe and transparent way.

Having said that, I understand that officials from the Ministry of Labour have spent time visiting the site to inspect and ensure that occupational health and safety rules and regulations were being complied with, and of course it should be noted that the health and safety of workers and the public is this government's top priority.

So from what I have here in my notes, I see that the Ministry of Labour has visited the stadium construction site nine times. In fact, I have all of those dates if you're interested: January 4 and January 7 of this year; January 14, 2013; January 15, 2013; May 15, 2013; July 29, 2013; August 6, 2013; October 10, 2013; October 21, 2013. It's my understanding that as of December 1, 2013, all orders have been complied with and no orders are out of compliance.

I just wanted to get a sense, given this level of scrutiny and our commitment, of what your thoughts were.

Mr. Lorne Newick: What my costs?

Ms. Dipika Damerla: Thoughts, your comments.

Mr. Lorne Newick: Oh, my thoughts. Well, I'm happy to see that the ministry is visiting the site and

ensuring that the health and safety is a legitimate concern on site. One incident that happened in the early goings when the site was being set up, and that would have been early in the year, possibly February or March, when I was meeting with Bouygues on site: There was an electrical contractor on site that was performing work, doing temporary power, hooking up construction trailers—temporary power for the workers who were showing up. One of the Bouygues's safety personnel was doing a tour. He stopped in to see a couple of electricians that were doing some work. He was having a conversation and he asked what their status was, whether they were journeymen, apprentices, or what their status was. It turned out that out of three of them that were on that job, not one of them had any credentials that day. There wasn't a journeyman licence; there wasn't an apprentice. There was nothing. Those people were asked to leave the site promptly by Bouygues. So they did the right thing.

The work that I was discussing earlier, as I mentioned, is at a stage now where most of the steel is erected on that site. This is when the subtrades—the electrical, mechanical, sheet metal—will go into that structure now, and they'll start performing work. So I hope that the ministry continues to do its visits and continues to ensure that worker safety is being taken care of.

Ms. Dipika Damerla: Thank you. I have here a letter, and I'm happy to share that letter with you, dated October 8, 2013, which was sent to David Peterson, chair of the Pan Am Games 2015, from David Tsubouchi, CEO and registrar of the Ontario College of Trades. In that letter, he asked to ensure—that the construction projects rolling out ahead of the games will be subject to intense public scrutiny and that the Ontario College of Trades would work closely with the Pan Am officials to ensure that all workers are in good standing with the Ontario College of Trades, notwithstanding the incident that you spoke about.

Following this letter to the chair, the Ontario College of Trades sent out enforcement officers to the construction site in the week of October 14, 2013. They, too, did not find anything out of order there. Were you aware of this fact?

Mr. Lorne Newick: I'm not aware of it. I don't get the reports from the College of Trades.

Ms. Dipika Damerla: Fair enough.

Mr. Lorne Newick: I don't know when they show up and what their findings are. Maybe that's a bit of a flaw in the system. Maybe we should all be a little bit more aware of when the college is doing a tour. Maybe they could post—I'm not sure if they do, but I'm quite certain they don't post anything on their website. But it might be something to consider.

Ms. Dipika Damerla: In addition to the Ontario College of Trades, the Electrical Safety Authority has also visited the site as part of their standard diligence, and has confirmed that all electrical work being performed at the construction site is according to code and by licensed tradespeople. So I just wanted to assure you that the government is enforcing, as you—I think in your

opening comments, you had asked for an assurance that the Pan Am construction would be done by people who are licensed with the Ontario College of Trades—

Mr. Lorne Newick: Yes.

Ms. Dipika Damerla: —and are following the apprenticeship act. I just wanted to ensure you, through these examples, that the government is indeed very aware that this is putting Ontario on the world map, and that we must do everything we can to ensure that the work is carried out safely and by licensed people, and that we are doing our part in inspecting, regulating and ensuring that the law is being enforced.

Mr. Lorne Newick: That's reassuring to know.

Ms. Dipika Damerla: Thank you. I just was wondering: I'm sure you know about regulation 570/05.

Mr. Lorne Newick: No.

Ms. Dipika Damerla: Sometimes numbers—I know, it's hard to remember. It says that the licensing of electrical contractors and master electricians who are—only licensed electrical contractors are permitted to perform electrical work in Ontario. This is speaking to exactly what you were talking about earlier.

Mr. Lorne Newick: That's right. Yes.

Ms. Dipika Damerla: I've been made aware that Infrastructure Ontario can confirm that all electrical work on site is being performed by licensed electrical contractors, as required by this Ontario regulation. I just wanted your comments on that. Does that reassure you?

Mr. Lorne Newick: Again, it is a high-profile job. I'm sure that in the tendering documents, that would be covered off, that the contractors are properly licensed and insured. That would be part of the bonding, I would assume. Yes, I would expect that, at the very least.

Ms. Dipika Damerla: Okay. For a while I think Mr. Miller's questioning was really on who got the contract and who didn't. What I'm really trying to focus on is, now that the contract is in place, that the work is being carried out as per the law. That's what I'm trying to understand from you, what your sense is of that. My next question is going to be, would it be fair to say—I know you've been in this position as a manager for quite some time.

Mr. Lorne Newick: Not a long time.

Ms. Dipika Damerla: How long have you been?

Mr. Lorne Newick: A couple of years.

Ms. Dipika Damerla: A couple of years. But you've been involved in a trade for a while, right?

Mr. Lorne Newick: Yes.

Ms. Dipika Damerla: So during this time, would it be fair to say that you've become quite familiar with the tendering process with large-scale projects such as these and what they might entail?

Mr. Lorne Newick: I'm not typically a part of the tendering process. Basically, I provide manpower. My contractors do the tendering and they do the bidding. Once they win the work, then I supply manpower.

Ms. Dipika Damerla: Would you say, based on your knowledge, that it's quite common for construction sites to use both unionized workers and unionized workers at the same time?

Mr. Lorne Newick: Yes.

Interjection.

Ms. Dipika Damerla: Sorry, did I say unionized and—unionized and non-unionized.

Mr. Lorne Newick: Yes, absolutely. It's common.

Ms. Dipika Damerla: So you would agree that that's quite standardized.

Thank you so much for your time today.

Mr. Lorne Newick: Thank you.

The Chair (Mr. Grant Crack): Ms. Cansfield.

Mrs. Donna H. Cansfield: So the crux of this is more about the process of the procurement process, as opposed to the licensing process. Is that from your perspective?

Mr. Lorne Newick: Well, it's sort of twofold, but yes, definitely both are very important matters to me.

Mrs. Donna H. Cansfield: In the one process, in the contractual or the procurement process, the suggestion is that the procurements are going to—because we have to, by law, take the lowest bid. That's part of the requirement of government, unless you do an RFI and you pre-qualify people. Your concern is that the bids are coming in from people outside of Canada for these large jobs.

1450

Mr. Lorne Newick: Well, the constructor is an off-shore constructor, being Bouygues. The people who are performing the work are Canadian.

Mrs. Donna H. Cansfield: Okay. Thank you very much.

The Chair (Mr. Grant Crack): Ms. Damerla.

Ms. Dipika Damerla: I did have one question, because there was some conversation around Clairmont winning or not winning the contract. In the end, my understanding is that Clairmont did win one of the contracts on the project. Is that correct?

Mr. Lorne Newick: Yes. Before the closing of the base building, which is the major component, he had secured the building service, which was a relatively small part of the stadium project.

Ms. Dipika Damerla: But they did?

Mr. Lorne Newick: They did, yes.

Ms. Dipika Damerla: Thank you.

The Chair (Mr. Grant Crack): We'll move to the opposition. Mr. Leone.

Mr. Rob Leone: Good afternoon, Mr. Newick. Thanks for joining us this afternoon. In listening to the presentation and listening to the comments, both from the NDP and from the Liberals, I'm a little bit mystified as to—forgive me—why you're here. I maybe need to ask some pointed questions to give me a better sense of what you might be able to provide to this committee.

You see, this committee was struck to investigate the Pan/Parapan Am Games, through the Ministry of Tourism, Culture and Sport and the Pan Am Secretariat. That's the design, the motive, of this committee. We are interested in understanding whether or not money has been misappropriated and whether the budgets that have been disclosed by the government are, indeed, factual or whether they've been underestimated in our eyes.

Those are the kinds of things that I am expecting to hear from this committee. This isn't my committee, mind you, but this is what I've come here to expect from this committee in terms of the study that we're undertaking here. So my question is, given your presentation—I know you talked a lot about union work versus non-union work, and various things about procurement. From a 30,000-foot level, do you believe that there is anything that has been scandalous in terms of the procurement of contracts with respect to the Pan Am Games?

Mr. Lorne Newick: I don't know if I'd rate it as scandalous, but it certainly raises questions with the contractors that use my labour when three contractors are left to close a project—actually, two projects; the velodrome was in there as well—and out of those three contractors, none of them have secured any work on any of the projects other than what I just mentioned, a very small component on the stadium project in Hamilton, which was actually let out prior to the closing of the main project—

Mr. Rob Leone: So does that raise doubt in your mind that these projects are going to be completed on time?

Mr. Lorne Newick: I can't say what the schedule is looking like. I have absolutely no idea.

Mr. Rob Leone: Would you have any commentary on whether these projects will be done on or under budget?

Mr. Lorne Newick: I couldn't answer that either.

Mr. Rob Leone: Okay. Do you believe that work that is being conducted on these premises by unionized or non-unionized—whoever is doing the work, do you believe the work is being done safely?

Mr. Lorne Newick: Again, judging from the reports that the ministry has submitted, I would say that work is being done safely.

Mr. Rob Leone: So you have no information that would lead us to believe that the work currently undertaken by whoever is contracted to do this work is not being done safely?

Mr. Lorne Newick: I couldn't argue and say that it's not. The message I wanted to try to get out here today was the potential for work that should be performed by a qualified tradesperson—there was intent, at least in the early stages, to have that work done by somebody who's not qualified. If that situation comes around, then there absolutely could be some serious safety concerns tied to it.

Mr. Rob Leone: But is what you said just now based on the perception of work being done by unqualified tradespeople, or is it a fact that unqualified tradespeople are doing the work?

Mr. Lorne Newick: Well, there's the fact that the ONSS intended to use unskilled, untrained labour to perform electrical work.

Mr. Rob Leone: Can you tell me what the acronym is? I'm not—

Mr. Lorne Newick: Sorry, Ontario Sports Solutions, which is the joint venture between Bouygues Building Canada and Kenaidan Contracting Ltd. This was corres-

pondence that Clairmont Electric was sent out through an email, like I said in my earlier statement.

Mr. Rob Leone: So there is correspondence stating that this consortium potentially wanted to use unqualified people.

Mr. Lorne Newick: Yes. They wanted to use labourers to do electrical work.

Mr. Rob Leone: Is it possible for you to table that correspondence for us to have? I'm just trying to get some information from you that will allow us to go further down this path that, in fact, the procurement, the safety, anything you are encountering—I'm sure you have members on the front lines who would see better than any of us some of the faults of what's going on with the system.

Mr. Paul Miller: Point of order.

The Chair (Mr. Grant Crack): Point of order, Mr. Miller.

Mr. Paul Miller: I think this may help you, Mr. Leone. I think what he's saying is that it's litigation. They're going after the sports group that is running the project, Bouygues and the other group, because they've got current concerns about why they were removed from the tendering bid, which they had already achieved, why there were—

The Chair (Mr. Grant Crack): Mr. Miller, if I may interject, I don't think that's a point of order. Perhaps those comments could be made in your next 10-minute round.

Mr. Paul Miller: He can't answer when it's in litigation, and I don't think he's aware of that.

The Chair (Mr. Grant Crack): The floor is Mr. Leone's to ask questions.

Mr. Paul Miller: Okay. Well, I'll just make him aware of it.

The Chair (Mr. Grant Crack): Thank you very much.

Mr. Rob Leone: Please see me after. Maybe I can get some more information from you, Paul.

But it goes further to the point of what I'm trying to understand and surmise from your testimony today. Usually, when we're doing these sorts of investigations, we're looking for specific things. I know that Mr. Miller and I have been talking about Pan Am in estimates, and we certainly wanted this committee to study it more fully and completely. Some of the things that we want to stay on track, and what keeps us on track, is when we have verifiable evidence to any degree, which is why I suggested that if you had any correspondence that might be useful for our deliberations, our investigation, to contribute to what I think is a growing sentiment in the public that these games have been mismanaged. We'd certainly be willing to have that kind of information. That's why I asked. I didn't mean to put you on the spot.

Mr. Lorne Newick: No, no, that's fine. I have that document. I have other documentation. I don't have it with me today. Perhaps I should have put it together for the committee members as evidence.

Mr. Rob Leone: Could we ask—how do we want to handle that, Clerk, in terms of receiving that document?

The Clerk of the Committee (Ms. Sylwia Przewiecki): Just send it to me.

Mr. Lorne Newick: I can submit it, yes. Absolutely.

Mr. Rob Leone: Thanks. That would be very helpful.

Again, I want to go back to the safety thing, because I know you were alluding to it earlier. Your position on safety is that you want to make sure that everybody who is working on site is a trained and qualified person, correct?

Mr. Lorne Newick: Yes.

Mr. Rob Leone: And to the extent that they're not trained and qualified, that compromises the safety of the construction of these facilities.

Mr. Lorne Newick: Yes, it does.

Mr. Rob Leone: And there wouldn't be anything that people have seen on the front lines to date that would contribute to the analysis that something has not been safely constructed to date.

Mr. Lorne Newick: The only incident was the one I described earlier, where the individual questioned some electricians—well, I'm not sure they were even electricians; they didn't have licences to prove it—the individuals who were doing electrical work on the temporary power at the early stages of the project. Other than that, I haven't been made aware of any unsafe practices.

Mr. Rob Leone: Is it your position that union shops are generally safer than non-union shops?

Mr. Lorne Newick: I like to think so.

Mr. Rob Leone: That's just an opinion, then. You don't have statistics to back that up.

Mr. Lorne Newick: Again, unfortunately, when we try to get the statistics—because we do have a huge investment in safety and training and we like to think, and we're quite certain, that that reflects on the job sites. When the ministry gets reports and when they do their studies on accidents, deaths, whatever, they don't break it down into union and non-union; it's construction accidents. So we can't say if it was a union or a non-union accident. We're just trying to prevent absolutely any kind of injury on the job.

Mr. Rob Leone: In terms of costs, I know that's part of the factor in terms of awarding procurement. I've heard the comment that we obviously want to be employing local people to the greatest extent possible.

One of the questions that does emerge with this is who, in fact, is able to tender and who is not. Between open tendering and closed tendering, there are and have been suggestions that by allowing open tendering, costs would be reduced. Would that be something that you'd be familiar with?

Mr. Lorne Newick: No, not really.

Mr. Rob Leone: Fair enough. I'm just asking.

Mr. Lorne Newick: As far as I know, I don't think open tendering takes place on these projects. Everything is confidential, as far as I understand—at least I would hope so—at least until after the tendering is done and the contract has been awarded. There's a possibility that the general or the constructor will release the numbers that the other contractors had submitted after one has been chosen to do the work, typically the lowest one.

Mr. Rob Leone: All right, Chair. That's all the questions I have for now.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Leone.

There are five minutes and 45 seconds left until a vote in the House. It is the committee's wish to have a recess until such time as the vote is taken, and we will return with the third party asking up to 10 minutes of questions. This meeting is recessed. Thank you very much.

The committee recessed from 1502 to 1516.

The Chair (Mr. Grant Crack): Okay, back to order. We have just finished up with the line of questioning from the opposition. We shall move to Mr. Miller, the third party, NDP: 10 minutes.

Mr. Paul Miller: Well, thanks very much, Mr. Chairman. I think mine will be a mixture of questions and comments.

First of all, I'd like to address the parliamentary assistant's comments about inspecting job sites. With all due respect, I've been a tradesman for over 30 years, and I've worked on a few sites myself and also in heavy industry and construction. Lots of times, the ministry will come, and they'll put an extra coat of paint on because they know the ministry's coming. The ministry will announce their arrival. I don't know if they do that anymore; maybe they do surprise visits. They may have. I don't know.

But I know that a lot of times, they would have sent an inspector who may have been—his base trade, he may have been a welder, an electrician, an iron worker, a tin-smith, a pipefitter or a plumber. A lot of times, they go there as a general inspector, and they may miss some of the intricacies that a tradesperson who is from that trade would know: an electrician, a welder. They may not be fully scoped on all the things that happen on a job site.

You rhymed off a bunch of visits by labour. Well, that's fine, but that was early. They went on January this, then, blah, blah, blah. The pylons were only in the ground. The cement work—there was no electrical work done. So you've mentioned times when they haven't even—this work hasn't even started. So I'm not quite sure that's accurate.

Certainly, I think the reason that the inspectors have increased their visits is because of the focus that's been put on by this committee, the official opposition and us, about some of the concerns we had. So, obviously, it's a hot button. It has been red-flagged. So the visits may increase because of that situation.

What I'm saying is, it's great to rhyme off a bunch of times that they visited, but you don't even know what they were there for. They may be investigating the cement work. They may have been doing the lumber work. They may have been doing the welding, checking the beams.

Mr. Vic Dhillon: Do you know what they were there for?

Mr. Paul Miller: I'm quite aware of what they do on a job site. Thank you, Mr. Dhillon.

They may have been checking the welds, the integrity of the structure or the steel—doesn't know what we were there for, and that did not spell it out.

Everybody got off track. The whole focus here, I believe, was the electricians' concern about how the tendering process went down, how it ended up from those companies that had already been given the nod who the electricians in Hamilton work for on a regular basis in the Hamilton-Halton area—they work for them. They work with certain companies in the area all the time that get the work for them.

His job, as the business agent, is to make sure his membership is out there working and that we don't have invasions from other memberships outside of the Hamilton area. Lots of times they would bring in—and the only way they can do that, in construction, is called under permit. So if his union guys are all booked out on a job site, that's okay, because they can't bring someone in from a Toronto union, because they have territories that they control. So all his men have to be on the job site before they can bring in permit workers. That does not apply to non-union. Okay? So the difference in how a job is manned could be a little bit of union, a lot of non-union or vice versa, depending on the company you're working for. So that's another thing that's a bit of a misled thing; that's not really how it works.

His concern was how the bidding process—

Interjection.

Mr. Paul Miller: I'm going to ask him to verify this.

His concern was how the bidding process went down, which was not good. People who had already achieved the tender process, they had already got the job and were okayed by this Bouygues—the French corporation had already said they had it. All of a sudden, after they did a lot of prep work, architectural drawings, blueprints—they had done all this work, and they lost a lot of money. In fact, they gave up work in the Hamilton-Halton area because they couldn't man it because they were doing the big project. So now, not only have they lost all that prep work, they've lost all the jobs that they would have had because it's been tendered out to firms that may be outside of the city because they couldn't man it. They've been hurt in more than one way with this tendering process. That was all about it.

As far as safety and health go, there are standards in the province that safety and health have to maintain. It doesn't matter if it's non-union or union. But certainly, as he explained to you, there was one inspector who stopped—and these guys were doing electrical work and not one of them was qualified. How they slip these people in, how they do it, I wouldn't know because I'm not there. But obviously he had some concerns. His electricians—trained, certified electricians—are outside on the street not working. This is what it's about.

As far as the money situation goes, the money situation is certainly a concern for us in the opposition and the NDP. It certainly is. We're concerned about how the money is being spent, but I think the main concern is, is it being done safely? Are the inspectors going at the right time? Are they going onto the job site when—a lot of things get covered in on a job when you don't know—

panels, conduits are done, a lot of electrical work is done that the inspector really can't see unless he gets in there and opens up the thing, and a lot of them don't do that. They'll do, I guess, a drive-by a lot of times. They're assuming that it's done properly. So there's a lot that people don't know who are non-tradespeople, that goes on on job sites. Would that be a fair statement?

Mr. Lorne Newick: Yes. You've pretty much nailed it on the head, as far as that goes. A huge amount of time and money were spent by the contractor to secure the work. I actually have a document that he sent me after he was told he wasn't going to be doing the work on-site, and he just lists some of his concerns and obviously some of his hardship caused by losing the work.

It was quite a long time after the tender closed before he was made aware that he wasn't getting the work. In that time frame, he had stopped bidding work because in his estimation he was going to be a very busy contractor for over the next year at least; he was going to need a lot of additional manpower; he had spent time to bring in people from the field to start looking at the drawings, start figuring out the scope of work, what was going to have to be undertaken. It caused him a lot of financial hardship because he had really no new work on the books. I just really question how they came to their decisions.

Mr. Paul Miller: That's right. Basically, you are here today because you want to make sure, from your perspective and the membership you represent, that all the work is done safely, it's done to code, and the people who are doing the work are qualified tradespeople who are recognized in this province by the trades programs and the apprenticeship programs.

A lot of times on job sites, would it be fair to say that because they're short of manpower or they don't want to pay for the extra tradesmen, that maybe a first-year apprentice might be working a little bit out of his—he's doing third-year work? Has that happened?

Mr. Lorne Newick: I would say it probably has.

Mr. Paul Miller: Oh.

Mr. Lorne Newick: Again, we have a system in place. Like I said earlier, we invest a huge amount of time and money as well. We police our manpower; we police our apprenticeship ratios. We make sure that our contractors aren't working outside the guidelines of the apprenticeship ratios set up in the province. We have people on the job sites who make sure that the apprentices are working under the supervision of journeyman electricians. We make sure that the foreman and supervisors are trained with the OSHA supervisory training level.

Mr. Paul Miller: So, Lorne, would it be fair to say that the gentleman who owns Clairmont Electric was not only concerned about the amount of prep work he had done and the costs he had put out, for one thing; number two, he was an honourable owner who was not going to go against the code or have other people performing his men's work that weren't qualified? That's why he had a problem. He brought that concern forward, and all of a

sudden, he's out of the tendering process—who had been awarded the tender—because he wanted to do it right. He wanted to do it by code. He wanted to make sure it was safe for a couple hundred years. Would that be a safe comment?

Mr. Lorne Newick: Yes.

Mr. Paul Miller: So it's not about money; it's about the tendering process, it's about safety and health, and it's about working out of your job description. People seem to have gone off that. That's what this is about. It's a combination of safety, certainly, because if you've got unqualified labourers setting down motor bases—when I left in 2007 as a millwright—

The Chair (Mr. Grant Crack): Five seconds.

Mr. Paul Miller:—we were aligning huge motor bases and projects like this with lasers. I'm assuming that these guys wouldn't be trained on that; the electricians and the millwrights would be, but not these labourers. There's a lot to be looked at as far as safety goes, and that's my concern.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Miller. We'll move to the government: Ms. Damerla.

Ms. Dipika Damerla: Thank you, Chair. I just want to begin by saying that a lot of allegations have been made in this room, but where's the proof? I'm a little concerned because there's a lot of assumptions being made that the company that got the contract, for some reason, will not follow all of the standards. I believe I heard you say, as well as Mr. Miller earlier, that the electrical work hasn't started yet.

Mr. Newick, what I heard you say in your opening remarks, because I took some notes, was—you talked about the fact that these were two big contracts taking place in Hamilton and Milton, the fact that one of them is an Ontario company, and you figure that they know the rules; and the other one is a French company, and you weren't sure if they would know all of the labour laws in Ontario. Then you asked for some reassurance that legislation would be enforced—a commitment that construction around the Pan Am Games would be done by licensed and certified people, and that all laws would be followed.

In terms of all of the speculation as to whether a first-year person is doing a third-year person's job or not, the job hasn't even started, so I'm not sure why we are here speculating. If there is hard evidence that something's not being done right, I would urge anybody to come forward so that the government can ensure that it's done right. I want to assure you that our priorities are safety, bringing the projects in on time and on budget, bringing value for the taxpayer and ensuring the best for Ontario, that these are the best games ever. I want to assure you that we will work with you. We want to work with you. That's the government's goal and aim.

I'm not sure what the point is of speculating whether this would happen or this wouldn't happen when the work hasn't started yet. Let the work commence, as far as the electrical work goes.

To Mr. Miller's point: Yes, of course, any government anywhere in the world, when you inspect, you go there and make the best of the situation on that particular day, unless you're inspecting 24/7. I'm not sure what his suggestion would be. I agree with you that surprise visits should be there; I would be a big supporter of surprise visits—absolutely, no question around that. But I do want to assure you that the visits were not just early. The last visit that I recall was on October 24, so those visits by the Ministry of Labour are ongoing.

My question to you, Mr. Newick, is, given everything I've said, do you feel some sense of comfort that, going forward, any of the electrical work that is done on the Pan Am soccer stadium in Hamilton will take place with the laws being followed and making sure that all work is done by licensed employees?

Mr. Lorne Newick: Well, it's reassuring to hear you speak in favour of the inspections taking place and ongoing as the project progresses, but I guess time will tell. Like you said, we're speculating right now. I came here based on some information that was passed on to me, and it was concerning information, because it was quite clear what they wanted to do as far as utilizing labourers to do this work.

1530

That was basically the purpose of my visit. I can't see into the future. I can't speculate on what's going to happen, but it's very reassuring to hear that you guys are committed to making sure that the inspections are going to be taking place.

Ms. Dipika Damerla: Sorry; I just want a clarification. When you were answering, you said "one issue." Was it the one instance where you said you heard that an inspector came from Bouygues? Is that the incident you're referring to, or something else?

Mr. Lorne Newick: No, that's the incident I'm referring to.

Ms. Dipika Damerla: Is that anecdotal, or was that something you witnessed first-hand? Can I just get some sense of what happened? Is it just anecdotal? Were you there?

Mr. Lorne Newick: I was there shortly after it happened. I wasn't there. This came third-hand; it came through Mr. Andrew Smerek, who was the electrical/mechanical project tender organizer. It was one of his employees. We were discussing an electrical contractor that was on -site, and he told me that he was looking into having them removed from the site permanently because of the infraction that had happened either that morning or the day before.

Ms. Dipika Damerla: So action was taken, and to the best of your knowledge, that has been fixed, and it's good?

Mr. Lorne Newick: Yes, and again, that was back in March or April of this year. It was the very, very early stages.

Ms. Dipika Damerla: Mr. Newick, I just get the sense that there are some allegations against Ontario Sports Solutions by Clairmont Electric that Ontario Sports Solu-

tions is not following safety regulations and cutting costs in the construction project at the Hamilton soccer stadium. Have you seen any documents that would confirm these allegations?

Mr. Lorne Newick: No, I haven't.

Ms. Dipika Damerla: No? So this is just speculation at this point by all concerned who are bringing this forward.

Mr. Lorne Newick: Exactly.

Ms. Dipika Damerla: Would that be fair?

Mr. Paul Miller: It's not speculation. It's in litigation.

Ms. Dipika Damerla: Well—

Interjection.

Ms. Dipika Damerla: Paul, you had your turn. Give me my turn.

Mr. Paul Miller: They're not allegations, either.

The Chair (Mr. Grant Crack): Order. Ms. Damerla, please direct your question. Mr. Miller, respectfully—

Ms. Dipika Damerla: That's all. Thank you very much.

Mr. Lorne Newick: Thank you.

The Chair (Mr. Grant Crack): Any other members of the government? Okay, thank you very much. We'll move to Mr. Leone, from the opposition.

Mr. Rob Leone: Again, Mr. Newick, thank you for taking the time to come see us today and provide some of your testimony with respect to safety and procurement. I know that that's what Mr. Miller wanted to get from your testimony, and I hope I have also tried to contribute to that discussion by trying to get you to talk a bit more about safety and procurement, and to provide us with some evidence or documents—if you have any—that would lead us to question that.

I will say, though, that our objective as a committee—I'll just read you, briefly, what our motion states we're supposed to be doing, which is to "initiate a study and review of the 2015 Pan/Parapan American Games and the Pan/Parapan American Games Secretariat, as it relates to the mandate, management, organization or operations of the Ministry of Tourism, Culture and Sport, with particular emphasis on financial issues, budgets and expenses of the 2015 Pan/Parapan American Games and the Pan/Parapan American Games Secretariat, in an effort to determine whether or not the Ministry of Tourism, Culture and Sport effectively exercised their role into the oversight of the 2015 Pan/Parapan American Games."

I'm a bit worried that we are getting a bit sidetracked from that, particularly given that the government's talking about Ministry of Labour inspectors, and we're going on those particular tangents. So I want to try to refocus back on what the mandate of this committee is, which is to investigate particularly the financial issues, budgets and expenses.

The procurement process—don't get me wrong; I think it's very important that we get that right. I would also agree and state unequivocally that we have to make sure that work is being done safely and that when people go to these venues, they're going to be safe as well. We

can obviously ensure that, if every part of the contract is being executed appropriately, we can have confidence that's going to be the case.

To this point, I haven't really determined whether or not—even asking directly—you believe that the stadiums are safe. We have no particular points of evidence that suggest otherwise, so I do want to clarify that.

You represent electrical workers. That's what you do. One of the issues with the Pan and Parapan Am Games and the secretariat has been the fact that the expenses that some of the games executive have been reporting have been exorbitant. Have you ever claimed a \$1.89 coffee in your expense reports?

Mr. Lorne Newick: No.

Mr. Rob Leone: How does an average worker that you represent feel about that?

Mr. Lorne Newick: I would say that they would probably be cynical.

Mr. Vic Dhillon: What about the orange juice?

Mr. Rob Leone: Pardon?

Mr. Vic Dhillon: What about the orange juice?

Mr. Rob Leone: Oh, the orange juice.

Mr. Vic Dhillon: I'm just saying—

Ms. Dipika Damerla: He's talking about the federal MP.

Mr. Rob Leone: Oh. Well, once we get to that investigation, Mr. Dhillon, we can ask that question. I'm actually also quite concerned about \$14 orange juice. We're picking an example out of many.

Have you ever expensed laundry that you're taking in for your day-to-day work?

Mr. Paul Miller: Mr. Chair, point of order.

The Chair (Mr. Grant Crack): Mr. Miller.

Mr. Paul Miller: I'm not sure where the member is going with this line of questioning. We're not grilling on what kind of coffee he drinks or how much he paid for it—his membership. I know he's getting back to the Pan Am expenses, but this isn't what this particular situation is about. So on a point of order, I think we should really get back to what he's here for, which is procurement and safety. I don't know what it's got to do with coffees and lattes. I'm a little concerned with where we're going with this. He thinks we were off base; I think this is really off base, going down that road. Anyway, that's fine. I just have a problem with that. I think we should get back to the real problem here. I don't care what he paid for a coffee, to be honest with you.

The Chair (Mr. Grant Crack): Well, thank you very much for your point of order, but it's not a point of order.

Mr. Leone, I know your line of questioning is somewhat financially related, so I'll continue to allow the line of questioning.

Mr. Rob Leone: If I'm being perfectly frank, Mr. Miller, I could have done the same thing to your testimony and your questioning as well.

Mr. Paul Miller: I don't think so; I think mine was more related.

Mr. Rob Leone: It was more related, perhaps, to the witness, but I'm trying to get a sense of where that testimony fits into our whole investigation here.

The Chair (Mr. Grant Crack): Mr. Leone, please focus on the witness.

Mr. Rob Leone: Chair, I again want to go back to some of my earlier questioning with regard—just to state for the record: Do you believe that work being conducted on any venue for the Pan and Parapan Am Games has been conducted to an acceptable safety standard, and do you have evidence that would state the contrary?

Mr. Lorne Newick: At this point, I certainly don't have evidence to support that there's any work that's being carried out unsafely.

Mr. Rob Leone: Do you believe that the taxpayers are getting value for their money from the contractors who are performing the work?

Mr. Lorne Newick: I'm not really at liberty to comment on that. I see a stadium going up, so if it comes in on budget, on time, I would have to say that they're getting value for their money.

Mr. Rob Leone: I have no further questions, Chair. Mr. Nicholls has one question.

The Chair (Mr. Grant Crack): Three minutes and 50 seconds.

Mr. Rick Nicholls: Mr. Newick, good afternoon. I have a couple of things I'd like to ask.

The members of the Legislative Assembly—our goals and objectives, as elected members, are to ensure that projects such as those projects involved with the Pan and Parapan Am Games come in on time, on or under budget, and of course, done safely, and I think we all would agree with that, as well. When I question your role—your role being representing the IBEW—it should be to ensure the same, I would think: on time, on or under budget and done safely. I guess the question I have is, what is the process involved when, of course, you are going up against perhaps a non-union shop? A question I might ask first is, when IBEW goes up against a non-union shop, are the wages the same?

1540

Mr. Lorne Newick: Non-union is typically lower.

Mr. Rick Nicholls: Very much lower?

Mr. Lorne Newick: It varies.

Mr. Rick Nicholls: It varies. That's a fair statement. Having said that and knowing that you may be going up against a non-union shop whereby they pay their workers less than what your workers earn, how do you compete with that? What process do you have in place to ensure that perhaps you may be successful with all things being equal, that you guarantee that the project will be done on time, on or under budget, and of course, done safely?

Mr. Lorne Newick: On that project in particular the only thing that I had really to promote us was the fact that we have a very, very deep labour pool and we can guarantee that if you need 150, 200 or 250 qualified, skilled electricians and apprentice electricians to get the job done on time, we can deliver that. We can guarantee our labour and our efficiencies. That's our selling feature.

Mr. Rick Nicholls: Okay. I think Mr. Leone has another question.

Mr. Rob Leone: When you were suggesting that contractors are bonded for the work that they do beforehand, what exactly does that mean? Is it simply a safety thing, or is that a liability thing? What exactly does it mean?

Mr. Lorne Newick: As far as I understand—again, I'm not really versed in the tendering process, but I'm pretty certain that bonding is a type of insurance. It's a liability insurance that the contractor would guarantee he is going to perform the work as per the contract agreement.

Mr. Rob Leone: So the bigger the project, the bigger the bond?

Mr. Lorne Newick: Exactly. It's percentage-based, I believe. Again, I'm not 100% sure on the bonding process.

Mr. Rob Leone: Part of the argument on procurement that might be established is whether companies that are awarded particular contracts may be excluded because they don't have a sufficient bond. Is that part of the issue?

Mr. Lorne Newick: Exactly. As far as I understand—

Mr. Rob Leone: Sorry; I'm running out of time. In any of the companies that you've talked about here, would that have been one of those considerations for why they may have been excluded?

Mr. Lorne Newick: The companies that closed, obviously, qualified for bonding.

Mr. Rob Leone: They pre-qualified for bonding?

Mr. Lorne Newick: Yes, they would have pre-qualified.

Mr. Rob Leone: Thanks.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Newick, for coming in and answering the questions. It's probably one of the longest questionings that I've been through to date, so congratulations. You did a great job.

Mr. Lorne Newick: I just thank you once again for the opportunity to come down and put this out. It means a lot to my contractors, it means a lot to me and it means a lot to my membership that we get an opportunity to come and speak to you people and express our concerns, so thank you very much.

The Chair (Mr. Grant Crack): Very good. Thank you very much for coming.

To the committee, we've had two witnesses to date. Is the committee interested, perhaps, in providing some direction to legislative research with regard to a summary of the two presentations and whether we want to do it by theme or by witness individually? Mr. Miller.

Mr. Paul Miller: Yes, I think it would probably be wise—Mr. Leone asked some good questions about procurement procedures and bonding. I think if we got research to look at the laws of the province on those particular situations—my understanding of bonding is simply that the company that bids on the project has enough wherewithal and assets that, if the project runs over, they can finish the work, if it has to take their own

resources to do it. In other words, it's a lot of companies—we had a bridge on the QEW where the contractor went under. He couldn't complete it because he went bankrupt and they even confiscated the equipment right off the job before the bridge got done. The ministry had to step in, and we eventually got a new contractor who got it done. That's what the bonding process is all about: to make sure that a company has enough, even if they underbid and make an error in their bidding, to fulfill the contract, at their own expense if they have to. That's what that's about. It is an insurance plan, really. That's what bonding is. We used to do that in the municipality all the time.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Miller.

Did you have any specific questions that you'd like to ask the committee for direction?

Ms. Anne Marzalik: Just whether the committee would like a summary of testimony. I know the hearings are not limited in terms of time frame. Does the committee wish to have a summary of witness testimony based on the themes, or based on each individual witness? That's really the issue. It would be my intention, going forward, to start working on the summary now and keep track of it, rather than wait for some period down the road.

Mr. Paul Miller: I think—

The Chair (Mr. Grant Crack): Mr. Leone had his hand up, and then I'll go to Mr. Miller.

Mr. Rob Leone: My curiosity is what exactly the themes would be. Is it pertaining just to the testimony, or are we going to establish those themes? That would be the question that I would have, directed to the Chair, to the Clerk and to the researcher.

Ms. Anne Marzalik: Usually the researcher will take the testimony and pull the themes out of that. Always, with a summary, we're focusing on witness testimony and what that testimony is. You may see, from one witness to the next, themes repeated, with different information or different testimony on those themes. Alternatively, you may just want to hear it by witness.

The Chair (Mr. Grant Crack): Thank you. Mr. Miller?

Mr. Paul Miller: I think that's excellent advice. I think a summary of the witnesses would be in order. They can also get the summary from legislative counsel, as well as what transpired here, so that they can certainly not misinterpret anything that happened today and get it in a good direction to present to his membership. Also, I'm sure he'll be glad to provide Mr. Leone with some of the documents that he wanted, that he needed to get to. I think it would be like a two-way street, but I think it would be fair to the represented business agent to be able to tell his membership what transpired and how it went on your summary. Does that sound fair?

Ms. Anne Marzalik: You mentioned legislative counsel. I wasn't sure how legislative counsel came—

Mr. Paul Miller: Not legislative counsel. I'm sorry.

Ms. Anne Marzalik: Legislative research.

Mr. Paul Miller: Legislative research. I'm sorry.

Ms. Anne Marzalik: That's okay.

Mr. Rob Leone: Consensus on a themed summary?

The Chair (Mr. Grant Crack): A themed summary?

Mr. Paul Miller: A themed summary, yes.

The Chair (Mr. Grant Crack): Okay. So is that the consensus of the committee?

Interruption.

The Chair (Mr. Grant Crack): Done. Carried.

Interjection.

The Chair (Mr. Grant Crack): No, no. I was just saying—it was just kind of like a little—

Mr. Rob Leone: You scared us there, Chair.

The Chair (Mr. Grant Crack): No, no. Don't worry, sir.

Mr. Rob Leone: Can I ask a question, Chair?

The Chair (Mr. Grant Crack): Perhaps.

Interjection.

Mr. Rob Leone: Exactly.

In terms of witnesses going forward, what's the schedule for this investigation? Do we have witnesses lined up, and are you soliciting for witnesses?

The Chair (Mr. Grant Crack): Madam Clerk?

The Clerk of the Committee (Ms. Sylwia Przewdzicki): My understanding is that we have one date left, which will be the 9th, which is one week from today. We are soliciting for witnesses, as you said. I did receive the witness list from the three caucuses, and according to the schedule set out in the motion that the committee passed, I am working to schedule the next two witnesses.

Mr. Rob Leone: And so, my question is, as I believe we have no afternoon witness today, does that mean that we would be able to make up that time with another witness later on?

The Chair (Mr. Grant Crack): Sorry, could you rephrase the question?

Mr. Rob Leone: My question is, I believe we were supposed to have, or we could have scheduled, another witness this afternoon. Obviously we're not scheduled to meet another witness today. My question is whether we could make up that time somewhere else and schedule another witness, potentially.

The Chair (Mr. Grant Crack): Okay. Mr. Miller, and then Ms. Damerla.

Mr. Paul Miller: I have a question, but I'm assuming that we're going to go on to Bill 71 and complete this agenda. In reference to future engagements of questioning people, that certainly could be lined up. But I don't know if it's an appropriate time to be dealing with that right now, to go through this and—

Interjection.

Mr. Paul Miller: Yes, you could do it at the end, Rob, and maybe line something up at the end.

The Chair (Mr. Grant Crack): Thank you. Ms. Damerla?

Ms. Dipika Damerla: Yes, Chair. I was just going to actually reiterate what MPP Miller said, which is that we already have an agenda of things we need to do on this

committee. We all had the opportunity to schedule people today. If you chose not to, that's a different story.

1550

Mr. Rob Leone: I was just asking.

Ms. Dipika Damerla: Fair enough.

The Chair (Mr. Grant Crack): Okay. Thank you very much. Why don't we just continue by the agenda, as was suggested? That's what's appropriate at this point. Then we can entertain some further discussion on how we're going to proceed, so we'll make some comments on that.

SUBCOMMITTEE REPORT

The Chair (Mr. Grant Crack): I believe there's a report from the subcommittee on committee business, or Bill 71? Ms. Scott.

Ms. Laurie Scott: Sure. I'll just read the Standing Committee on General Government subcommittee report from Friday, November 29, 2013.

Your subcommittee on committee business met on Friday, November 29, 2013, to consider the method of proceeding with Bill 71, An Act to protect child performers in the live entertainment industry and the recorded entertainment industry, and recommends the following:

(1) That the committee hold public hearings on Bill 71 in Toronto, at Queen's Park, on Wednesday, December 4, 2013, during its regular meeting time, as per the order of the House dated Thursday, November 28, 2013.

(2) That the Clerk of the Committee, with the authorization of the Chair, post information regarding the committee's business with respect to Bill 71 in English and French on the Ontario parliamentary channel, on the Legislative Assembly website and with the CNW newswire service.

(3) That interested people who wish to be considered to make an oral presentation on Bill 71 should contact the Clerk of the Committee as soon as possible.

(4) That the Clerk of the Committee, in consultation with the Chair, be authorized to schedule witness presentations on the bill as the requests are received, on a first-come, first-served basis.

(5) That presentations be scheduled in 20-minute time slots, and that groups and individuals be offered five minutes for their presentations followed by up to 15 minutes for questions by committee members, five minutes per caucus.

(6) That the deadline for receipt of written submissions on the bill be 5 p.m. on Friday, December 6, 2013.

(7) That the research officer provide the committee with a summary of witness presentations by 5 p.m. on Friday, December 6, 2013.

(8) That amendments to the bill be filed with the Clerk of the Committee by 4 p.m. on Monday, December 9, 2013.

(9) That the committee meet on Wednesday, December 11, 2013, during its regular meeting time for clause-

by-clause consideration of the bill, as per the order of the House dated Thursday, November 28, 2013.

(10) That the committee Clerk, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

The Chair (Mr. Grant Crack): Thank you very much. Further debate on the report? Okay. Those in favour? Any opposed? There are none. Carried. Thank you very much.

COMMITTEE BUSINESS

The Chair (Mr. Grant Crack): We were having some discussions with regard to a request from Mr. Leone about using some allotted time. What I can say on that, having looked at the calendar: We do have full days for December 4 and 11 coming up, which leaves only the 9th. I propose perhaps some discussion on whether or not we want to meet after the House rises, during the break, which would be effective the 12th? We are coming back effective February 18; the next available day would be the 19th. I'll throw that out for information.

Mr. Miller?

Mr. Paul Miller: Mr. Chairman, I just want to know: What's Mr. Leone looking for? Does he want to call more witnesses for Pan Am? I'm not sure what he's after here. Maybe he can clarify that for us.

The Chair (Mr. Grant Crack): Thank you very much. Mr. Leone?

Mr. Rob Leone: Yes. Mr. Miller, we have put three names of witnesses on our witness list. I'm hoping that we can get through at least those names.

Mr. Paul Miller: It's not going to impact anything we just did?

Mr. Rob Leone: I don't want to impact you at all.

Mr. Paul Miller: It's not impacting Bill 71?

Mr. Rob Leone: That's not my intention.

Mr. Paul Miller: But there would be no holdups either, no 20-minute things? Do you know what I'm saying? I know you can't predict that, but—

Mr. Rob Leone: I know what you're saying. Our plan here is not to do that.

Mr. Paul Miller: Okay. All right. That's fair.

Mr. Rob Leone: So next Monday is open, right?

The Chair (Mr. Grant Crack): We have a four-hour meeting on the 9th.

Mr. Rob Leone: So we can have three witnesses?

The Chair (Mr. Grant Crack): There are two scheduled.

Mr. Rob Leone: Could we have a third?

The Chair (Mr. Grant Crack): It won't fit in; 90 minutes would not fit in, according to the motion that was passed earlier.

Mr. Rob Leone: All right.

The Chair (Mr. Grant Crack): I believe the Clerk is trying to prioritize—

Mr. Rob Leone: Are we able to meet in January? Are we able to meet if we make a motion to do that?

The Chair (Mr. Grant Crack): From what I understand, if the committee directs the Chair to make that request to the government House leaders to make that determination—that would be the process to follow.

Ms. Dipika Damerla: Chair, does there have to be unanimous consent here, or how does that work?

Mr. Rob Leone: Can I just clarify? We aren't able to actually extend and sit in January until the House leaders agree; is that correct?

The Chair (Mr. Grant Crack): That's correct.

Mr. Rob Leone: So if we would move this, we would be, as a committee, asking the Chair to make the request to House leaders for extra days in January to meet about the Pan Am Games?

Ms. Dipika Damerla: I understand that, but I'm asking if that request is something that has to have unanimous consent, the request to the House leaders, or is it just if one person wants it?

Mr. Rob Leone: I would move it.

Mr. Paul Miller: You're not moving a bill—

The Chair (Mr. Grant Crack): Mr. Miller?

Mr. Paul Miller: We're okay with Mr. Leone's request, as long as it's not a bill he's trying to bring forward. If it's just more witnesses for Pan Am, we don't have a problem with that. If he can verify that for me, I don't have a problem with that.

Mr. Rob Leone: So verified.

The Chair (Mr. Grant Crack): Okay. So there has been a request by Mr. Leone to have the committee agree to have the Chair correspond with the government House leaders requesting that we meet on various dates, perhaps, during the month of January.

Mr. Paul Miller: Just the one Monday.

The Chair (Mr. Grant Crack): On one Monday. Okay. So is there any discussion on that?

Interjections.

The Chair (Mr. Grant Crack): Pardon me? Ms. Scott, did you have a question?

Ms. Laurie Scott: I'm trying to help Mr. Miller.

Mr. Paul Miller: It's my understanding, from what you said, that there are four hours available on Monday the 9th.

The Chair (Mr. Grant Crack): Right.

Ms. Laurie Scott: Yes.

Mr. Paul Miller: That's correct, right?

Ms. Laurie Scott: Right.

Mr. Paul Miller: And since it's open, you wanted to call a couple more witnesses for Pan Am. Is that what you're saying?

Mr. Rob Leone: We would like to use December 9 for Pan Am. Correct. But in—

Ms. Dipika Damerla: But isn't that already the case? That's already the case.

The Chair (Mr. Grant Crack): We are scheduling the two witnesses through the Clerk.

Mr. Paul Miller: It's already done?

Mr. Rob Leone: Yes. It's already—

The Chair (Mr. Grant Crack): It's to be confirmed. I don't think it's—

Mr. Rob Leone: But my question—

The Chair (Mr. Grant Crack): We've invited two.

Mr. Rob Leone: I think I made a mess of this.

The Chair (Mr. Grant Crack): We're waiting for their confirmation to come back—

Mr. Paul Miller: So you've got to run it through the House leaders.

The Chair (Mr. Grant Crack): —but, according to the motion, we're entitled to 90 minutes for each presentation.

Mr. Rob Leone: Okay.

The Chair (Mr. Grant Crack): That's three hours. We have four hours.

Mr. Paul Miller: Oh, okay. So do you have to run it by the House leaders?

Ms. Laurie Scott: To call on other witnesses? Is that what you're asking?

Mr. Rob Leone: I'd like to get through our witness list. That's my only motivation. How it happens, I really don't—

Interjection.

Mr. Rob Leone: Yes.

Mrs. Donna H. Cansfield: I think they're two separate things. I think you have December 9 and going to the House leaders. There's only time for two witnesses, although there's an extra hour. I believe what Mr. Leone is asking for is an additional date or dates, or an additional witness or witnesses—whatever—and that has to go through to the House leaders. We can all ask for that. I don't think it needs to be unanimous, but the House leaders will ultimately decide whether or not they'll schedule more meetings.

Mr. Paul Miller: Oh, okay, so it's an additional day. Oh, that's different.

The Chair (Mr. Grant Crack): In January. Ms. Scott.

Ms. Laurie Scott: Just to clarify something: We only have four hours booked for Monday, December 9.

The Chair (Mr. Grant Crack): Right.

Ms. Laurie Scott: And Mr. Leone was saying there's an hour left. Can we call another witness in that hour? I know it goes opposing to what we as a committee voted on, that there were 90-minute presentations. Mr. Leone's just asking, is there any way we can do consent here today to add on another witness for 60 minutes?

Mrs. Donna H. Cansfield: No. I think he asked that.

Ms. Laurie Scott: Did you give him an answer? You only have three hours taken up, right? I think Mr. Leone was saying, "Well, we have an extra hour on Monday. Can we call another witness in the hour?" We wanted to know if we can do that among ourselves here, or how does that work?

Mrs. Donna H. Cansfield: You won't treat them all the same.

Ms. Laurie Scott: Well, we do that—

Mr. Rob Leone: That's the conundrum. To add to that, the reason why we're saying—I don't want to

interfere with what Mr. Miller has proposed on Bill 71. I realize that's certainly his private member's bill. We just want to make sure that we can get the witnesses in.

Chair, in addition to that, my question is: In the two slots, I believe there is a Liberal witness and a PC witness. If one of those witnesses cannot attend, is it possible just to move to the next witness on the witness list, so that we're assured that we at least have two witnesses next week? I just want to make sure that that's clear. That's also something that we're interested in. That's clear?

The Chair (Mr. Grant Crack): That's fair.

Mr. Rob Leone: That's fair?

Mr. Paul Miller: That's no problem.

Mr. Rob Leone: Okay. So the only conundrum that we're in here is about half an hour, and what to do about that.

Mr. Paul Miller: Well, you can adjourn early if it's a half-hour. You're not going to get much in a half-hour anyway, Rob. What are you going to do in half an hour?

Mr. Rob Leone: So you're saying we should have an hour?

Mr. Paul Miller: No. I'm just saying I think your best bet is to run it past the House leaders and see if they're okay with it. I think that's your best bet.

The Chair (Mr. Grant Crack): Any further discussion? I'm trying to be impartial here and allow the discussion and the debate to take place amongst the members, but—any further discussion? Yes, Mr. Miller?

Mr. Paul Miller: So what Mr. Leone's saying is that if someone cancels—if a Liberal witness cancelled, can he have another Tory witness? That's what he wants.

Ms. Dipika Damerla: Chair, I do have a question on that.

The Chair (Mr. Grant Crack): Ms. Damerla?

Ms. Dipika Damerla: How would that work? Because if a Liberal witness doesn't show up, perhaps we'd want to substitute with another Liberal witness.

Interjection: There you go, see?

Ms. Dipika Damerla: It's only fair, right? How does that work? My recommendation is, why don't we just go with what we agreed on as a subcommittee? That was the time to have figured this out. Let's just go with it and keep it simple. That would be my recommendation.

The Chair (Mr. Grant Crack): Okay. Thank you very much. Any further discussion? Okay. So, is there consensus? Let me go back here. We're going to continue on the 9th. Of course, the 4th and 11th are already committed.

So, the 9th, with two witnesses—the Clerk understands how the process is going to work; I think now the committee does as well, but then we have to go back to the request that Mr. Leone had made with regard to sitting an extra day in January. Is it the wish—

Mr. Rob Leone: I revoke that.

The Chair (Mr. Grant Crack): You're going to revoke that? Then discussion has ended on that.

The Clerk would like me to clarify that we did send out two invitations for today. Only one responded and

was able to confirm, but we do have nine more days until the next meeting, and I'm sure that we will have some success in bringing witnesses forward.

Any further discussion? That being said, I believe that's it. This meeting is adjourned.

The committee adjourned at 1602.

CONTENTS

Monday 2 December 2013

Pan/Parapan American Games review.....	G-407
International Brotherhood of Electrical Workers Local 105	G-407
Mr. Lorne Newick	
Subcommittee report	G-418
Committee business.....	G-419

STANDING COMMITTEE ON GENERAL GOVERNMENT

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Legislative Assembly of Ontario

Second Session, 40th Parliament

Assemblée législative de l'Ontario

Deuxième session, 40^e législature

Official Report of Debates (Hansard)

Wednesday 4 December 2013

Journal des débats (Hansard)

Mercredi 4 décembre 2013

Standing Committee on General Government

Protecting Child
Performers Act, 2013

Comité permanent des affaires gouvernementales

Loi de 2013 sur la protection
des enfants artistes

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Wednesday 4 December 2013

Mercredi 4 décembre 2013

The committee met at 1620 in committee room 2.

COMMITTEE BUSINESS

The Chair (Mr. Grant Crack): I'd like to call the meeting to order. I just have one order of business before we get going. Good afternoon, everyone, members of the committee. Just some housekeeping here before we begin.

On Wednesday, November 27, Ms. Damerla moved a motion regarding the committee's schedule with respect to Bills 105 and 71. That motion was on the floor when the committee adjourned and was scheduled to be the committee's first order of business on Monday, December 2. The following day, Thursday, November 28, by order of the House, Bill 105 was discharged from this committee and a meeting was scheduled for Bill 71, and it was determined here today.

As a result, the motion that was before us is no longer before us; it was removed from our agenda on December 2. I'm sure you're all aware of this, members; we had to put it on the record because I did not mention it on Monday. As such, I thank you very much.

PROTECTING CHILD
PERFORMERS ACT, 2013LOI DE 2013 SUR LA PROTECTION
DES ENFANTS ARTISTES

Consideration of the following bill:

Bill 71, An Act to protect child performers in the live entertainment industry and the recorded entertainment industry / Projet de loi 71, Loi visant à protéger les enfants artistes dans l'industrie du spectacle vivant et l'industrie du spectacle enregistré.

The Chair (Mr. Grant Crack): Having said that, we do have limited time as a result of what has transpired in the House. I have consulted with the three different caucuses. We have agreed, I believe, in principle to reduce the questioning time down from five minutes to three minutes. Is that agreed? Agreed. Thank you very much.

ACTRA TORONTO

The Chair (Mr. Grant Crack): It is my pleasure to welcome the Alliance of Canadian Cinema, Television

and Radio Artists. I believe that Ms. Milling will begin. If you would like to introduce yourself for the record. Welcome. You have five minutes.

Ms. Sue Milling: Thank you. Imagine children trying to learn in an unventilated paint locker, or trapped in hot costumes and heavy makeup for nine hours or more. Imagine a four-year-old who is given a gun without warning and forced to shoot the actor playing her mother so that production can get a spontaneous reaction. Imagine an 18-year-old finding that his parents have spent all of his earnings and left him with a bill for three years' unpaid taxes. These are some of the reasons why we need Bill 71, an act to protect child performers. You'll find more in our written submission.

I'm Sue Milling, the executive director of ACTRA Toronto. With me are Kiara Glasco, one of the stars of the TV series *Copper*; her mother, Kimberly; our child advocates Tabby Johnson and Theresa Tova; and our friends who welcome and support Bill 71.

We've been negotiating provisions to protect child performers for many years. We may disagree with our producer partners about how self-employed contractors may be protected under the law, but we agree that there is a need to protect child performers.

We ask the committee and all stakeholders to measure all revisions and amendments against the paramount purpose of Bill 71, as outlined in section 2: "to promote the best interests, protection and well-being of child performers." Bill 71 gives legal force to the protections found in industry collective bargaining regimes and Ontario's child performer guidelines, and extends them to all Ontario child performers in five key areas: tutoring, income protection, workday and rest periods, parental involvement and responsibility, and health and safety.

Our submission has the details, but who better to talk about this legislation and what it means than Kiara and Kimberly?

Kiara?

Ms. Kiara Glasco: The adult content in *Copper* was very high, and I was protected by my mother, my tutor and, really, all of the people who were there to help me through everything that was going on. Belonging to a union is so important, because children are protected with proper hours on set. We receive tutoring that is beneficial to keep our education at a high standard.

For example, if I decide to leave my acting career, I will be well educated and I'll make sure that I'm not—I know what to do. That's the great thing about tutoring:

They keep you on top. I'll be well educated by this important agreement that ACTRA has.

Ms. Kimberly Glasco: I've watched my daughter on set, and it was very important to see how the tutoring and the psychological aspect of it helped throughout this difficult and complicated series. It was a very exciting event.

But I can also say on my side that right now we have an agreement on income protection where there's only a 25% portion that is given to ACTRA. I would love to see stronger guidelines in this for children who don't even have the chance to belong in a union, because, unfortunately, children are now litigating against their parents. It's a very common story, and it's unfortunate, but I really believe that they need to be protected by these guidelines as well.

Ms. Tabby Johnson: I'm Tabby Johnson, ACTRA Toronto child's advocate.

Ms. Theresa Tova: And I'm Theresa Tova, ACTRA National children's advocate, here to help my Tabby.

Tabby and I spend a lot of time talking to parents of both union and non-union child performers.

Ms. Tabby Johnson: We answer and hear the same questions over and over again from parents who want to know, "How do we keep our kids safe on set? How do I know if I'm doing the right thing?"

Ms. Theresa Tova: And it's sad to say that sometimes, we encounter parents who are blinded by stardust or dreams of fame and offers of money, and they fail to be able to advocate on behalf of their children.

Ms. Tabby Johnson: Everybody is a star sometimes—and so it's hard to say "no" when production comes up to you and makes you an offer you really are afraid to refuse. But that's not because the people in our business are mean, it's not because they don't care; it's because looking after kids is not their core business. They have other things to do. We need you to help them look after the kids on the show so we can all make fabulous work and bring billions of dollars into Ontario.

Ms. Theresa Tova: Our message is really clear: Children in this business were routinely being exploited before we came onto the case. They were continually being put in harm's way until ACTRA in 1995 and 1996 succeeded in the first comprehensive negotiation with a meaningful expanded minors' section, protecting minors in our collective agreements. Child performers on non-union sets—and the whole world is doing movies—are at risk still. Ontario law provides none of the special protections that these kids need.

Ms. Tabby Johnson: Ontario child performers—like my girl over there; now, she's a union girl—we need to do better. They deserve better. They need the protection that this bill, that we have all worked on, can bring to all kids who want to be a superstar.

Ms. Theresa Tova: That's our introduction and we welcome any questions. Thank you.

The Chair (Mr. Grant Crack): Thank you very much. I think it would be respectful to have the first line of questioning go with the sponsor of the bill: Mr. Miller and the NDP.

Mr. Paul Miller: My first question is to Sue Milling. Legislative protection of child performers has been a goal of ACTRA for several years. Would you please tell me when you became involved in your goals for the legislation, and can you give me an example where a child performer needed medical or psychological care on set?

Ms. Sue Milling: Okay. I'll start with this one and then pass it over to Theresa.

We've been negotiating provisions to protect child performers for some time and have been looking to try to see those kinds of protections and the ones that we worked on jointly with our industry partners in the Ministry of Labour in developing—the guidelines for child performers—enacted into law. This really is the logical next step for us, to see those provisions, which we've worked on together in the industry in guidelines and in our agreements, taken to a point where they can be extended to all child performers.

Ms. Theresa Tova: The initial guidelines borrowed heavily from the ACTRA negotiations, from the ACTRA rule books. What we saw were children being set on fire for a fire effect—yes, "Oh, it's just a stunt. It's safe," but we watched footage where children were being absolutely traumatized.

We saw four-year-olds—the example we gave, a very, very famous actor coming out and putting this gun in her hand and a crew member had to pull the generator to say, "Why are you abusing this child?" It was just horrendous—or setting a fire in a tree house for a child that's up, up, way above the ground, and the mother is sitting, having a cappuccino.

The Boys of St. Vincent: a very famous, famous case where we exposed the abuse of children—but we shouldn't abuse children in the name of making movies, so we brought psychologists onto the set. They protected the children; they guarded them; they prepared them for this subject matter.

Mr. Paul Miller: Okay. A question to Tova—no, sorry, wrong one; to Tabby: What kinds of things do you hear from parents whose kids are working non-union, and why have you chosen to be a child advocate for ACTRA?

Ms. Tabby Johnson: I'm a child advocate because I'm 60 and I have been working in this industry since I was 10 years old. I have a grade 10 education because there was nothing put in place when I was working as a child performer.

I went back to university at 53—hello. I don't want that to be happening to my baby. I don't want that to be happening to any other children, that they end up being 50 years old with not even a full grade 10. That is why I became a child advocate for all children: Because it's important to me, as a mama, to look after your baby.

I know, sir, that you are wonderful with children—I read your bio; I'm sorry—so I'm just saying that I think we're all here for the same thing.

Mr. Paul Miller: Okay.

1630

The Chair (Mr. Grant Crack): There was only seven seconds left anyway. Thank you very much.

We'll go to the government right now.

Mr. Vic Dhillon: Thank you, Chair. I've been in this place for 10 years, and I've attended many committee meetings. I've got to say, this one was the most entertaining.

Ms. Theresa Tova: It's not over yet.

Mr. Vic Dhillon: Can you briefly tell us approximately how many child performers typically work in your industry?

Ms. Tabby Johnson: Oh, it's 8,000 and something—

Ms. Theresa Tova: No, no, no. We have 2,200 nationwide, and we've got around—we can get the exact numbers for you, but I believe it's over 1,500 in Ontario.

Mr. Vic Dhillon: In Ontario. Okay. And how many—

Ms. Theresa Tova: Members.

Mr. Vic Dhillon: Okay. And how many of these child performers would be excluded from your association?

Ms. Tabby Johnson: You see, we don't know who's working non-union.

Ms. Theresa Tova: Those are our numbers.

Ms. Tabby Johnson: Those are our numbers, as ACTRA. But, as you have read, there is Mandy's; there are many sites. Go to Kijiji or Craigslist. We can't go to all of those non-union places. That's why we need you to put this in place.

Mr. Vic Dhillon: Fine. If this bill was enacted, what impact would it have on ACTRA's agreements?

Ms. Sue Milling: We've negotiated fine collective agreements with our partners in film, television and in the commercial jurisdiction. I think that those agreements are recognized in terms of being able to adopt the best practices in the environment that we have. Really, this legislation is about extending provisions to the non-union environment.

Mr. Vic Dhillon: Okay. Thank you very much.

The Chair (Mr. Grant Crack): Any other questions? Ms. Damerla?

Ms. Dipika Damerla: Thank you so much for coming. I just wanted to ask—since you're saying that you can't track the kids who are going through Kijiji or whatever, so it's hard for you to get a handle, I guess my question is—I support the intent of the bill, but the issue then comes down to, if you can't track, how do we police the regulations? Any thoughts on that? It's one thing to put the regulation in place.

Ms. Theresa Tova: Tabby and I have been going out and doing a lot of education of parents, telling them their obligations to be with their children on sets. We do that with non-union parents as well.

Ms. Tabby Johnson: We go to libraries. We go to school basements.

Ms. Theresa Tova: Simple things like educating parents and going on talk shows and doing the pushes in the parent magazines, saying that it's your right to be within earshot of your child at all times, so that we avoid situations on a set where a seven-year-old is kung-fu-kicked across a trailer because he said the wrong thing to the star. We need to educate the non-union world as to their legal obligations as parents.

Ms. Tabby Johnson: With this bill, this gives all parents the opportunity to know what can happen, because you don't know that you don't know until you know that you don't know.

Ms. Sue Milling: I think the other thing is that the promotion that we will do of this legislation, and that the government will do of this legislation—it is sending a very strong signal to children and their parents that they are protected, that they have rights and that there will be a voice for them on sets.

The kinds of stories that we started out with in this presentation aren't ones that we make up. As Kimberly and I were chatting about before we started, they're ones that parents continue to hear about, whether they are on some of our sets or off sets. To be able to say that we're taking a proactive approach and we're extending these protections, that we know have benefited children like Kiara, to others in the industry, in an industry that is providing significant economic growth in this province, I think, is a really positive step for this government to take.

The Chair (Mr. Grant Crack): Okay, thank you very much. We'll move to Mr. Yurek from the Progressive Conservatives.

Mr. Jeff Yurek: Thank you, Chair. Thanks very much for coming out today. I'd like to see some passion in your answers, though. I'm not seeing the passion coming out.

Laughter.

Ms. Theresa Tova: You're tough.

Ms. Tabby Johnson: Good tie, though.

Mr. Jeff Yurek: Hey, thanks.

My question is, just looking over the hours of work and the break periods for the younger kids, especially the two-and-under: Is that enough time for the break period, that 20 minutes? I remember my daughter, when she was between birth and four, she needed her breaks. Now she doesn't take any breaks, and I'd maybe like to legislate her to have breaks, but—

Ms. Tabby Johnson: Kids who are in the business have a different temperament, I've discovered, but—

Ms. Theresa Tova: Let him finish the question. What's the question?

Mr. Jeff Yurek: Is that adequate? What's spelled out in the legislation—is that adequate break time?

Ms. Theresa Tova: Well, for the very, very younger kids, the reality in the business is they use twins and triplets in order to get their time in front of the camera. Then, on top of that, it's 20 minutes away from the set. On a lot of sets, when you're on locations and this and that, it will take you half an hour just to get back to your trailer. So you do get a rest period away; you get time off. It just means that production has to plan their day.

Mr. Jeff Yurek: So you set minimums, basically, and if it's going to be longer than that—

Ms. Theresa Tova: It's what the industry is doing now, and it works very well for them.

Mr. Jeff Yurek: In regards to, for our 12-year-olds, working possibly a 10-hour day, that's perfectly—

Ms. Theresa Tova: But it's only every two days; the third day they have to go back to a normal work hour so they can have a regular childhood outside of the industry.

Mr. Jeff Yurek: Okay. And Ms. Glasco, thanks very much for coming today. You said if your acting career fails, you're well educated, but I also would like to say you're well prepared to become a politician. If you come to Queen's Park any day you'll see a magnitude of performances going on. So thank you very much.

Ms. Cindy Forster: Good and bad, right?

Mr. Jeff Yurek: Yes, good and bad. Of course, mine are always excellent, if you ever tune in. I have the passion—no.

Thank you very much for coming in. I appreciate you speaking out for your generation, and I appreciate the rest of you supporting them. Thank you.

The Chair (Mr. Grant Crack): Thank you very much. We really appreciated it. And thanks for entertaining us.

Ms. Tabby Johnson: No charge.

PROFESSIONAL ASSOCIATION OF CANADIAN THEATRES

The Chair (Mr. Grant Crack): Okay, so next up would be the Professional Association of Canadian Theatres, PACT, and I believe we have Ms. Lucy White with us, executive director. Welcome, Ms. White. You have five minutes.

Ms. Lucy White: Good afternoon. Thank you very much for the opportunity to speak to Bill 71, a very important and timely bill. I'm the executive director of the Professional Association of Canadian Theatres, and I wish to say, on behalf of all of our members and together with my colleagues at the Canadian Actors' Equity Association, how strongly we support the objectives of this bill.

PACT represents more than 140 professional theatre companies in the country; 40 of them are here in Ontario. That includes theatres like the Stratford and Shaw festivals in southwestern Ontario; Magnus Theatre and Sudbury Theatre Centre in the north; the Great Canadian Theatre Company, the St. Lawrence Shakespeare Festival and the Thousand Islands Playhouse in the eastern part of the province. Our members are predominantly not-for-profit charitable organizations, and they produce high-quality theatre experiences for Ontarians. PACT is mandated to ensure the best possible working conditions for artists and arts workers and for supporting classic and contemporary theatre work across the province.

Children are integral to the world of theatre. Whether attending theatre school during school breaks, experiencing the excitement of theatre in the audience or expressing their creativity as artists on stage—in parts as different as Anne Shirley in *Anne of Green Gables*, Noah Gellman in *Caroline, or Change*, or Billy in *Billy Elliot*—child performers are treated as the professional artists they are. Their best interests and safety are of paramount concern to us.

Children require and deserve special consideration, as they are among the most vulnerable members of society. The Canadian Theatre Agreement, jointly negotiated between the Canadian Actors' Equity Association and PACT since 1977, includes comprehensive provisions to ensure that specific and appropriate care and attention are given to child performers. Our agreement stipulates that child performers shall be treated with respect at all times, and provided with additional consideration in the areas of supervision, training, hours of work, interaction with others, and permission of, and communication with, parents, guardians, schools and the children themselves.

Our recommendations today are made jointly with our colleagues from the Canadian Actors' Equity Association, and are technical ones designed to amend the provisions concerning tutoring, chaperones, child supervisors and the section on mental or emotional stress, in order to provide clarity and consistency with the existing Canadian Theatre Agreement. They do not impact the objectives of the bill.

Very briefly, we would like to recommend that under the definition of "child performer," the age be 15. That would be consistent with occupational health and safety standards elsewhere in the country.

1640

We would like to see the tutoring provisions be separated between live performing arts and the screen-based industries. They are different working environments. We'd like that to be reflected only in three places.

Section 7(2): We would like the parental responsibilities to be paramount, and therefore we would like to reduce the employer's role to reflect the provisions that they shall "make allowances in the schedule," which is already practised in the industry, for the child to receive tutoring. We think it's important and crucial for the parents and the schools to be consulted and to be the ones guiding the assignments, provision of equipment and so on, rather than the employer by way of a tutor.

We'd also like to see 7(2)(b) clarified to include the word "complete" to make it clear we're talking about entire school days and not part school days.

For 7(4), paragraph 4, we thought that if we omitted the section about tutoring to occur in the first two hours of the workday, that would allow for the usual work habits, the insertion of fittings and those kinds of things that will arise in live theatre. This is already commonly done, and it seems to be working fairly well.

The Chair (Mr. Grant Crack): Thirty seconds.

Ms. Lucy White: I'm going to skip over to make the point that in the Canadian Theatre Agreement it is already stipulated that child supervisors must be 16, but must be trained child supervisors, which is distinct from chaperones, who are untrained. We'd like to see that amended in the bill.

Finally, the section on mental and emotional stress is extremely important, but it is unclear. We're looking for some clarification around the application and scope of the appropriate medical and psychological care, because we're keen to ensure the well-being of child performers,

but we need more guidance for parents and employers, and we'd like to see some regulation around that.

The Chair (Mr. Grant Crack): Thank you very much. We'll move to the government side. Mr. Dhillon.

Mr. Vic Dhillon: Thank you, Chair. In a given year, how many child performers typically work in the industry?

Ms. Lucy White: My association can't track that information, but my colleague from Canadian Actors' Equity may have that information.

Mr. Vic Dhillon: And how many of these child performers would not be ACTRA or Equity members?

Ms. Lucy White: Again, I can't track that information, as the producers.

Mr. Vic Dhillon: Okay. If this bill was passed, what effect would it have on your organization?

Ms. Lucy White: While we believe that our current collective agreement does an extraordinarily good job of protecting child performers and we believe that we would be very consistent with the objects of the bill, if we were to make these technical amendments, we think that it would improve the bill and continue to protect children.

The Chair (Mr. Grant Crack): Ms. Damerla.

Ms. Dipika Damerla: I was just wondering, what difference does it make whether the child is defined as under 18 or under 15, from your perspective?

Ms. Lucy White: I was looking at the occupational health and safety sections as a reference point, to see what difference it would make. I think the difference is around cognitive abilities, around training, around a growing independence for children. So what we find is, even in the provisions around things like child supervisors, that the needs of the older teenagers, the 16-, 17- and 18-year-olds, are very different. We feel that it would be consistent with the existing law to lower the age range slightly. That was our thinking.

Ms. Dipika Damerla: How much time do I have?

Mr. Grant Crack: One minute.

Ms. Dipika Damerla: My other issue: I think what you're hinting at is that you already do make provision for tutoring, but the issue is, who is going to pay for it? Is that what you're hinting at? I'm just trying to understand, because I'm looking at your amendment, and it's not clear to me.

Ms. Lucy White: The way that we were suggesting the amendment would happen would be, first of all, to be clear about when tutoring is required, and then allow, in the rare instances in live theatre—which is very different from film production and TV production, in terms of the hours—allow the conversation to be happening between the parents, the schools and the theatres.

For very long-running shows, like something like *The Sound of Music*, you would have different provisions being made between the producers and the parents around the provision of tutoring. For short-running shows that are running three or four weeks, and the children are only out of school for two or three days, perhaps over the Christmas break, it doesn't make sense to require the producers to hire and pay for tutors. This is outside their

area of expertise, and we feel that that's a parental responsibility.

In jurisdictions like Stratford, the relationship between the local schools and the festival is very collegial and well understood, and everybody works well together because they're doing it together.

The Chair (Mr. Grant Crack): Thank you very much. Mr. Yurek, from the opposition.

Mr. Jeff Yurek: I just have a couple of questions on your amendments. I'm just reading them for the first time, so you'll excuse me if they come out silly.

You're asking to decrease the defined age of a child performer to 15 and under, from 18. Would that, therefore, take away the whole educational aspect for a 16- and 17-year-old? That kind of takes them out of this whole bill, then, does it not?

Ms. Lucy White: Yes.

Mr. Jeff Yurek: All right. It's not a tough question. I just wanted to clarify, because my concern is—I might be pessimistic, but I think a lot of potential actors may not make it. To take them out of ensuring that there's education provided for kids in their teenage years—I want them to be productive members of society when they're done and ready, so that they can move on with their career or maybe move into the producers or move their way up through the other channels, and they have the education there. So my concern with that amendment would be that they lose that opportunity.

Ms. Lucy White: As it would be mine. The intention was to make the age consistent with other aspects of working in Ontario.

What it did not intend—and I will be rethinking this. It did not intend to eliminate the tutoring provisions for children older. What it intended to do was be consistent. After all, children 16 and up don't have to attend school. However, the working traditions in theatre would be absolutely to accommodate those children.

So it's not meant to eliminate it, but I would have to look at that provision again.

Mr. Jeff Yurek: My personal feeling is that kids shouldn't be allowed to quit school until they're 18, but that's myself.

Ms. Lucy White: I agree, but that's not what the law says. We're trying to be consistent.

Mr. Jeff Yurek: We'll talk to them and change it.

My question on the chaperones: You want to change it from two and a half years and older. Why did you pick six years of age as the cap?

Ms. Lucy White: We feel that children should be with their parents—and up to age six, absolutely. The parents need to be in the theatre.

However, from six and up, we feel that, cognitively, children are able to be supervised by trained child supervisors, and so there would be a kind of redundancy of people available, people on set.

Our collective agreement says that the parents must be available to the child, but when you're thinking about the very limited, often very restrictive, area backstage in a theatre—very different from a film set—the numbers of

people that this bill could allow to be backstage would potentially cause another health and safety problem, the kind of thing we're trying to prevent.

By restricting it to those children who most need to have their parents with them, we think we're coming to a nice compromise between the objectives of the bill, which we support, and the realities of working in live theatre.

The Chair (Mr. Grant Crack): Okay, thank you very much, Mr. Yurek.

Interjection.

The Chair (Mr. Grant Crack): Yes, sorry. Ms. Forster?

Ms. Cindy Forster: Thanks very much for being here and for your presentation. It seems to me, though, in listening to your presentation—we only have three minutes between the two of us—that some of the things we're trying to actually achieve in this bill—some of your proposals are somewhat retrogressive.

We currently have tutoring; we have a tutoring clause in the bill. It seems to me that you're suggesting that now the burden and the cost of that tutoring should actually be placed back on the taxpayer at the school system, and the parents should be providing that tutoring.

1650

Ms. Lucy White: No. I'm sorry if I was unclear. What we're saying is that, in the rare occasions when children would actually be away from school, within the context of the bill's scope, the theatre producer, the parents and the school would need to come to some agreement about whether tutoring would be provided or not. It's not about putting the burden on the taxpayer. That's not what the amendments suggest.

Ms. Cindy Forster: So who currently provides tutoring?

Ms. Lucy White: For long-running shows, often it will be the producer. For short periods of time, it might be that the child goes to the school for extra help at different hours. There are all kinds of ways to address this. It might be that, in the schedule of a rehearsal schedule, that child might be away for three days and never again, so you're going to need a different set of accommodations than you would for a long-running show. I'm saying, leave the responsibility with the producer, the parent and the school to sort out what's best for the child in those circumstances.

Ms. Cindy Forster: You also made the comment that children 16 and up don't have to attend school by law, but you're certainly not suggesting that we should be promoting or facilitating the notion of children not needing a tutor because they have the right to not attend school in any event.

Ms. Lucy White: No, I'm not suggesting that at all. What I'm saying is that, to be consistent with the existing laws, lowering the age definition in the bill to 15 would be consistent with other aspects of occupational health and safety, as I understand them.

Interjection.

Ms. Cindy Forster: No, that doesn't mean that's good.

The last question was with respect to reducing the age on child supervisors. What was the intention of actually doing that? It seems to me that 21 would be a good age for supervisors to be when they're perhaps supervising children who are almost the same age as them.

Ms. Lucy White: Right. Okay, so our experience is that to have any consistency with child supervisors, which will allow for the training that they are obligated to have, by the time someone reaches age 21 they are no longer available to be child supervisors in the theatre. What we hear from our members is that they look for the most qualified individuals who are available at the time when child supervision is required—so, rehearsal day or a performance day—but that it's very difficult to find anyone over 21, so we would eliminate the 16 to 21 year-olds who are already working, qualified and trained to be child supervisors.

The Chair (Mr. Grant Crack): Okay. Thank you very much, Ms. White. Thank you for your time and for coming. Very informative.

Ms. Lucy White: Thank you.

CANADIAN MEDIA PRODUCTION ASSOCIATION

The Chair (Mr. Grant Crack): Next on the list is the Canadian Media Production Association. I believe there will be three members coming forward: Mr. Mastin, Mr. Ross and Mr. Bawcutt.

Welcome, gentlemen. Please state your names for the record. You have five minutes. Thanks for coming.

Mr. Reynolds Mastin: Thank you very much, Mr. Chairman, and our thanks to the standing committee for inviting us to provide you with our comments on Bill 71. With me is Warren Ross, who is the CMPA's national director for industrial relations, and I'm going to give a more formal introduction to Mr. Bawcutt in my opening remarks.

Warren and I, of course, represent the Canadian Media Production Association. We are Canada's trade association for independent film, television and digital producers. In 2011-12, the production sector in Ontario generated \$2.5-billion worth of economic activity and over 50,000 high-quality full-time jobs, the best performance in the industry's history, an industry that is currently one of the strongest in the province.

We're very pleased to have with us Michael Bawcutt, who is production manager on *Degrassi*, one of the most successful children's television shows in Canadian—maybe even global—history, and which has proven itself an industry leader in the protection of child performers. Michael?

Mr. Michael Bawcutt: Thank you. There are many factors that account for the Ontario production sector's success and its ability to provide tens of thousands of jobs to Ontarians, but one that has been absolutely critical is the reputation it has built for having a solid, stable and predictable labour relations environment.

This brings us to Bill 71. The protection of child performers is an issue of central importance to ACTRA,

the CMPA and CMPA members producers. It's why for decades the agreement that producers negotiated with ACTRA called the independent production agreement, or IPA, has included an entire section exclusively dedicated to providing enhanced protection to minors. Perhaps not surprisingly, therefore, many of the provisions in Bill 71 are a mirror of, or are inspired by, equivalent provisions in the IPA.

Further, in each round of IPA bargaining, producers and ACTRA have worked collectively to continue to improve the protections afforded to child performers, including in the most recent round of bargaining. We believe our joint focus on the protection of child performers serves as a true labour relations success story.

Mr. Warren Ross: We therefore respectfully submit that, given the strong bargaining history we share with ACTRA and our mutual commitment to date, the IPA works, including, and most especially, when it comes to protecting child performers. We're therefore asking the committee to consider certain key amendments to the bill.

The first is to provide that the bill does not apply to those productions that are signatory to the IPA. Adopting this amendment would recognize that there is a mature bargaining relationship between producers and performers. Having Bill 71 apply to productions already governed by the IPA would set a precedent that would encourage performers and producers to ignore the deal that was negotiated at the bargaining table and instead attempt to achieve their goals through political lobbying, a process that runs contrary to the very fundamental tenets of labour relations.

Now, we absolutely recognize the fundamental importance of protecting child performers, and we therefore submit this bill must apply where protections for child performers do not exist, namely productions not signatory to the IPA.

Next, while the bill and IPA touch on many of the same issues, the language used in the bill differs substantially from the IPA in many key respects, thereby essentially creating two different standards within our industry. We therefore propose that the bill be amended so that its provisions match the substantive elements of those enumerated in the IPA, creating a uniform standard that would apply to all productions in the province. Having this uniform standard would also further stability and predictability in the industry and would avoid the almost certain challenges with application where two entirely different standards are being applied at once.

Mr. Reynolds Mastin: Finally, we would propose amendments to certain defined terms to reflect the fact that child performers, like any other performer, are typically engaged by producers as independent contractors. To ensure the bill actually applies to those it seeks to protect, these changes would be essential.

To summarize, our requests are threefold: first, to have Bill 71 only apply to productions not governed by the IPA; second, to have the provisions in Bill 71 substantively match those contained in the IPA, thereby

creating a uniform standard across the industry; and third, to change certain definitions to more properly reflect the legal relationship between producers and performers.

We are committed to working with you, ACTRA and other stakeholders to amend the bill in a manner that furthers the goal of protecting child performers, while at the same time preserving the stability and predictability that have been so critical to the production industry's success.

We thank you for your time and welcome your questions.

The Chair (Mr. Grant Crack): Well, thank you very much. I appreciate that. We'll move to the opposition. Mr. Yurek?

Mr. Jeff Yurek: Thanks, gentlemen, for coming in. You got me on this one. I don't know much about the IPA. I know you talked about it a little bit, but can we talk about it a little further, compared to Bill 71? What's the—

Mr. Warren Ross: The differences? Well, there's a number of differences. Some are minor—just different words used that effectively say the same thing. Others are entirely different standards. The main problem with this is the confusion that would result. If we assume that the bill is going to apply on an IPA-signatory production, you might say, "Okay, for the really obvious things it's clear which standard applies." But this bill, unlike a number of other bills such as the Employment Standards Act, is very, very specific; the ESA is very broad. The IPA is also very specific.

So if you take for example—we've spoken about it a couple of times today—the provisions respecting mental health, the bill talks about providing adequate medical care. The IPA talks about providing adequate psychological care or something of that nature. If I'm a producer, and I'm looking at that and trying to figure out which standard is the higher threshold I have to meet, it's not going to be clear to me. I'm not going to understand how I can be in compliance with that standard. When we're dealing with these issues which are about child performers, we don't really have room to guess. We need to get it right the first time, so it needs to be crystal clear.

1700

Mr. Jeff Yurek: Randy has one here.

The Chair (Mr. Grant Crack): Mr. Pettapiece.

Mr. Randy Pettapiece: All right, thank you. Is there a short form of the IPA that we could look at, that we could get?

Mr. Reynolds Mastin: Absolutely. We can provide you with the child performer section from the IPA for your review.

Mr. Randy Pettapiece: Okay, all right. I think that would certainly help out. It's mentioned so many times in here, an IPA agreement, and I just found the definition of it in there somewhere. I think that would certainly help the committee out, to be able to explain what you're talking about—

Interjection.

Mr. Randy Pettapiece: No, not that thick.

You said that there are different words that pertain to the same thing and that it might cause confusion and that type of thing. If we could have examples of that, that would certainly help us when we're looking at—that would be most helpful.

Thank you, Chair.

The Chair (Mr. Grant Crack): Thank you very much. Mr. Miller.

Mr. Paul Miller: Gentlemen, how are you today? I talked to you earlier today.

Obviously, you favour a system which can operate with providing protection for children in the industry. Obviously, you've stated that, and you would be 100% behind that.

Explain to me why you would have two different standards. You think that yours is good, and that's fine. You've negotiated that with ACTRA over the years, and you think it's fine and it covers everything. And yet you want my bill to go forward, to protect people who are non-unionized, because you like the content and you think it would be good.

Now you're saying that you want ACTRA—you have created two standards. I'm saying this bill will create one standard for the industry throughout, unionized or non-unionized. This has nothing to do with your collective agreement. This is over and above it. This is to protect children. This has no negative impact on your present agreement and does not jeopardize it.

You're making it look like it may have a negative impression on your further negotiations with ACTRA and Equity or whoever you deal with. I don't think that's the case, because this is about protecting kids. Could you answer that?

Mr. Reynolds Mastin: Certainly. I have to say that what was striking about ACTRA's presentation earlier, and particularly Kiara's and her mom's when she was talking about the high standard of education they received, the high quality of tutoring, the psychological care—they have all of that because of the IPA between ourselves and ACTRA. All the parties to the agreement, who work with it and live it every day, are familiar with its provisions. When issues arise, because they're familiar with its provisions, they can deal with them in an expedited way. In fact, one of the features of the IPA is there is an expedited grievance process when anything arises with respect to the child performer section.

My take-home from their presentation was that the IPA works because all the players understand it—because they drafted it collectively—and the key thing—

Mr. Paul Miller: Well, with all due respect—I know you're trying to keep it going.

Mr. Reynolds Mastin: —is to have that apply to non-union productions.

Mr. Paul Miller: With all due respect, the IPA, in your opinion, is fine. Why would ACTRA and Equity and all the other people in Ontario come to me and work with me to improve it, if they felt that yours was efficient, fine; you can deal with it in-house; you don't have to expand it, only to people who are non-union? That

doesn't make sense to me. If it's good for non-union, it's good for union, and the bill is good for everybody. You want it to be the same across the board? That's how you do it.

What you're doing is creating two sets of rules: unionized collective bargaining on one side, non-union on the other. That's not what this is all about. This is to make an umbrella situation for everybody in the province. What you're doing is making it worse by saying that, in your opinion, your set of rules is fine. But obviously, the actors don't think it is, and they want to expand on it.

I have a real problem with what you're saying. I don't think that you're forecasting exactly what's going on here, because why are we here? Why did they come to me? Why are they pursuing this—and I've been working on it for six years—if everything's hunky-dory? I don't think it is.

The Chair (Mr. Grant Crack): There are three seconds left, but I will afford you some time to respond.

Mr. Reynolds Mastin: Well, maybe I misunderstood what ACTRA was saying a few minutes ago, but they were also describing what we've achieved under the IPA as an industry success story.

The other thing that was actually quite striking, in response to your questions, Mr. Yurek, is that they gave, I think, very persuasive answers, and the reason why was because they could rely on the IPA, which is something we've negotiated, and we've figured out what works for child performers.

We're not proposing two standards. We're proposing the IPA standard that would be uniform across the industry.

Mr. Paul Miller: Your present standards.

Mr. Reynolds Mastin: The standards in the IPA.

Mr. Paul Miller: There's no room for improvement, is what you're saying?

Mr. Reynolds Mastin: We'll be sitting right down with ACTRA in two years, and we're open to having those discussions, as we always do.

Mr. Paul Miller: Two years from now. So there's no room for improvement—

The Chair (Mr. Grant Crack): Thank you very much. Thank you, Mr. Miller.

I believe that's—you've already asked questions, have you not?

Mr. Vic Dhillon: No.

The Chair (Mr. Grant Crack): Oh, I'm sorry. Okay, very good. Go ahead. Government—

Mr. Vic Dhillon: Thank you, Chair. Thank you very much for coming today. If Bill 71 were to apply to all children currently working under the IPA, what impact would that have?

Mr. Warren Ross: Sorry, could you—

Mr. Vic Dhillon: If Bill 71 were to apply to all children working under the IPA, what impact would that have?

Mr. Warren Ross: I suppose that would depend on which amendments—if our amendments would be approved or not. If we're saying, as currently drafted,

then I would say that a sort of confusion would arise as a result of these two different standards simply because the bill is so detailed and the IPA, obviously, is so detailed.

Any difference in those standards would lead to confusion as to which one to apply, which one would be the higher standard and which one we'd need to get right. Our position would be that, if there is any confusion, we should be relying on the experts in the field who have actually negotiated the IPA and who understand exactly what is necessary, especially since ACTRA is one of those parties, and simply apply that standard as the one that would govern the industry.

Mr. Vic Dhillon: How do you think the IPA differs from Bill 71, and would it be bad to also have Bill 71 apply?

Mr. Warren Ross: We've touched on the provision of medical information. I think it's important to note that Bill 71 isn't necessarily better or worse than the IPA; it's different. There are a number of provisions in the bill that—in our view, at least—could actually lead to harming child performers.

There are a couple of examples. For example, we talked earlier about the importance of education, tutoring and this sort of thing. In the IPA, we have a provision that requires parents to ensure that they provide to the producer the child's assignments and schoolbooks from the teacher. That provision is not required under the bill, so in terms of consistency, especially if we're talking Degrossi, for example: The kids on that show will often appear a couple times a week—one or two days—and then they're back in school. You're jumping back and forth. If there's no requirement for the parent to be providing those assignments under the bill, then I can only imagine how confused that child is going to be when it comes to the consistency of the education they're receiving and the problems that could result from that.

The Chair (Mr. Grant Crack): Okay, well, thank you very much. I appreciate you coming before the committee.

Mr. Warren Ross: Thank you.

CANADIAN ACTORS' EQUITY ASSOCIATION

The Chair (Mr. Grant Crack): Next we will call upon the Canadian Actors' Equity Association. I believe we have Ms. Ryshpan. Welcome.

Ms. Arden Ryshpan: Thank you very much.

The Chair (Mr. Grant Crack): If you could just state your name for Hansard, it would be much appreciated. You have five minutes.

Ms. Arden Ryshpan: My name is Arden Ryshpan, and I'm the executive director of Canadian Actors' Equity. Thank you very much for inviting me to speak this afternoon. Equity represents nearly 6,000 professional artists, including performers, actors, singers, dancers, directors, choreographers, fight directors and stage managers engaged in theatre, opera and dance in English Canada.

I stepped on my first film set at the age of six. By the time I was 14, I was an ACTRA member with a continuing role in a soap opera. I had an entirely different kind of stage parent: Both of mine worked in the business. My father was a stage director and acted in both stage and film, and my mother was an executive with ACTRA.

Pretty well everyone I worked with, whether on a film set, in a commercial, when modelling or doing voice work knew one or both of my parents. I was as safe on a set as a child could be, often surrounded by people I had known for years and who had been guests in my home. I was lucky, because back then—and this was quite a while ago now—there was little to nothing in any of the collective agreements, either for film or live performance, specific to the needs of children.

Over the years, the collective agreements have gradually been improved, with significant changes in live performance coming in the last round of bargaining with our colleagues at PACT. Kids who work with a union contract in either the live or the recorded sector are pretty well taken care of. We would always like to see further improvements, and we will continue to press for more changes in each round of negotiations in the future. But this bill is really designed to protect child performers who have neither a professional association nor parents in the business to look after them, to protect the kids who are doing this because they love it.

From my own time working on the sets as a technician, and then later at ACTRA, I can give you a number of horror stories about children being abused; about parents being bribed with cash to ignore the union rules and let their children work well into the night; about the child whose parent has a drinking problem and was abandoning the child at night, taking the per diem money, using it at the bar and not feeding the child; or about a film made by an extremely well-known Canadian director, where my own brother and sister, who, at the time, were about eight and 11, were deliberately not told that the Santa Claus on whose knees they were sitting was about to get shot to pieces, in order to ensure a spontaneous reaction from them.

1710

I can also tell you about the major stage production in Toronto where, the week before opening, the kids, some as young as six and seven, worked a 54-hour week, and no parent told us what was happening until it was over.

These stories take place in a unionized environment, where there are protections in place and people on call to enforce those rules. This is what happens in a regulated workplace. What happens in a non-regulated one?

This bill basically mirrors the terms and conditions of our agreement with PACT, and we believe that those terms and conditions are reasonable working conditions for children in our business. We're not seeking to achieve through legislation what we have been unable to achieve through collective bargaining. We are looking to ensure that kids working in a non-union environment, whether it be for film or television or commercials or on stage, get a modicum of protection in Ontario.

It's important to understand that even though the kids who participate in a production love it, it is work. It is the same work done by an adult. An adult is able to pull themselves together, to go in on a day when they don't feel like it and make it work, and that takes great discipline. Imagine the discipline required from a seven-year-old to come to rehearsal and do the same thing over and over and over again, and then be ready, willing and able to go on stage several nights a week in front of a huge crowd. For any of you who have children, think of the time it takes to get your seven-year-old out of bed.

The Chair (Mr. Grant Crack): Okay. Thank you very much. Mr. Miller.

Mr. Paul Miller: Arden, with your experience in stage productions, what is the age when a child performer could comfortably be considered adult enough to not need this additional protection?

Ms. Arden Ryshpan: I think that's very difficult. I don't think that there is—certainly, small children need this additional protection. I think our collective agreement provides a certain amount of protection already. But children are children, and they come in all sorts of capacities and abilities to function. They have greater comfort being in a workplace than other children. I don't know that it's comfortable to cut the age off at—

Mr. Paul Miller: Okay. What was your experience with schooling when you were a child performer, and what would you have made better? Does this bill help?

Ms. Arden Ryshpan: There were no provisions when I was a child. I left school. I was a very good student; I was able to make up the time myself. But there were absolutely no provisions made for any additional tutoring at all for any of the time that I missed.

Mr. Paul Miller: Do you feel that this bill covers a lot of areas that are weak and certainly need enhancement and improvements?

Ms. Arden Ryshpan: I do indeed. That's why we're here. That's why we work so closely with our colleagues at ACTRA. That's why we've worked closely with our colleagues at PACT. We're very concerned about ensuring that this bill goes through.

Mr. Paul Miller: So you obviously have read the bill. Do you feel that there's anything in that bill that should be deleted?

Ms. Arden Ryshpan: I don't believe there's anything that should necessarily be deleted. There are a few things in there which are not entirely consistent with our agreement. I'm comfortable with the terms in our agreement, certainly, and in the amendments that we have made. As I said, the amendments merely suggest bringing certain areas in the live performance sections into alignment with what's in our agreement.

Mr. Paul Miller: All groups that have made presentations here, you feel, could work to enhance the bill, to make it reasonably acceptable to everyone, for the betterment of children. Would that be a fair statement?

Ms. Arden Ryshpan: I would certainly hope that everybody who has come here this afternoon is prepared to make that commitment, yes.

Mr. Paul Miller: Thank you, Arden.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Miller. We'll move to the government: Mr. Dhillon.

Mr. Vic Dhillon: Thank you very much for coming today. Can you tell us, from your experience, some more about how children's mental or emotional stress is addressed in the workplace?

Ms. Arden Ryshpan: I happened to be working at ACTRA at the time when *The Boys of St. Vincent* was being produced. Obviously, that's a situation where children—it's a story about children who were abused sexually. It's extremely important that children, when dealing with that kind of material, are appropriately prepared.

Things are a little different on stage than they are on film. Things are not as realistically portrayed in some respects, but there are times when there might be scenes of violence or sexual activity where I believe that it's important that the child be appropriately prepared, and "appropriately" is a little bit difficult to define. Are we talking about a seven-year-old or are we talking about a 12- or 13-year-old? And what kind of a scene are we talking about? I think that has to be a conversation held between the parent, the child and the production, based on the material that's being performed.

Mr. Vic Dhillon: Can you tell us a little bit about the current arrangement for breaks and snacks?

Ms. Arden Ryshpan: Our agreement allows for regular breaks during the day. There are now, in our agreement, provisions where the producer needs to provide appropriate snacks for children. In that case, that may, in fact, mean providing a peanut-free environment in some cases, and ensuring that there are healthy things there for children and not just sugary snacks that'll make them bounce off the walls.

Mr. Vic Dhillon: Is it a common practice to provide snacks?

Ms. Arden Ryshpan: It really depends on the production. Normally, because people are there for the day and they're let go for lunch, often people bring their own snacks. It's a little different in film and television, where there's always catering and what they call "craft service" provided. It's a little different in theatre; it's not as big an issue in live performance.

Mr. Vic Dhillon: My colleague has a quick question.

Ms. Dipika Damerla: No, I'm fine.

Mr. Vic Dhillon: Okay, thank you very much.

Ms. Arden Ryshpan: You're welcome.

The Chair (Mr. Grant Crack): Okay, thank you. Mr. Yurek from the opposition.

Mr. Jeff Yurek: Thank you, Chair. Thanks for coming in today. For the record, my nine-year-old daughter bounces out of bed at 6, and it has improved since she was seven. It was 5 in the morning every day. She's good that way.

My question is on PACT's recommendations; I'd like to get your opinion on them. Reducing the age of a child performer to be defined as "15 and under"—just your thoughts on it. I didn't get a chance to ask the other groups.

Ms. Arden Ryshpan: Our agreement defines a child performer as 15 and under. Given the work hours in theatre, which tend to be often shorter than they are in film, once you're over the age of 16 or 17, the work day, the breaks, they're all quite reasonable, in our business. As I said, live performance is quite, quite different from film in that respect.

Mr. Jeff Yurek: Okay. So would you be for that amendment?

Ms. Arden Ryshpan: Certainly with respect to, as I said, live performance, that would be consistent with what is currently in our collective agreement.

Mr. Jeff Yurek: But it won't be any different. It's grouped together, is it not, Paul?

Mr. Paul Miller: What's that?

Mr. Jeff Yurek: It would be grouped together. You're not differentiating between live and—

Mr. Paul Miller: No, we're perfectly prepared to make amendments, different categories and—

Mr. Jeff Yurek: Okay, so that is possible.

Ms. Arden Ryshpan: Some of our amendments, in fact, are looking to separate live and film in some other ways in order to reflect the differences in the workplace.

Mr. Jeff Yurek: So, in live theatre, how would that affect their education proposal, if they're now no longer covered under that part of the bill?

Ms. Arden Ryshpan: The other thing that my colleague at PACT didn't express was that it is easier to organize a rehearsal schedule to accommodate a school-age child. The normal day for rehearsal is 10 to 6. It's not unreasonable for people to try and schedule rehearsals with children from, say, 3 or 3:30 to 6, which means in some cases, they might miss no school whatsoever.

Once they're in performance, if they are in their city of residence, they wouldn't be missing school necessarily at all, because they could spend the day in school and finish at 3 or 3:30 and then go to the theatre.

Again, that's much different from film and television where they have to get a certain amount of work done in a single location in a single day, and they're likely to need children for day after day after day after day for the entire day. The only time when that would happen would be in something like *Billy Elliot*, where the child is the star, and I know that the children who have performed in *Billy Elliot* have had to come out of school for extended periods of time and have tutors provided for them. But it's much rarer in live performance.

Mr. Jeff Yurek: Would the actor in *Billy Elliot* be over 15?

Ms. Arden Ryshpan: No, those boys were all either 11 or 12 years old.

The Chair (Mr. Grant Crack): Okay, thank you very much. I thank you for coming this afternoon and sharing your thoughts.

MS. SHIRLEY DOUGLAS

The Chair (Mr. Grant Crack): Now it gives me great pleasure to welcome Shirley Douglas to the floor. Good afternoon and welcome to the committee.

Ms. Shirley Douglas: Thank you very much.

1720

The Chair (Mr. Grant Crack): It's great to welcome someone who has the same birthday as I do, April 2.

Ms. Shirley Douglas: Oh, don't you love it? Why do we all love our birthdays?

The Chair (Mr. Grant Crack): It's a wonderful day.

Welcome. You have five minutes, and we look forward to hearing from you.

Ms. Shirley Douglas: I wanted to talk to you about what a film set is like. At any given time, there may be 100 or 110 people at that location. We have directors. We have the director of photography, the most important person there. We have the first, second and third ADs. We have hair and makeup artists, wig masters, costume designers, costume cutters, sewers, hats, shoes—all of our people, and the list is longer than that. All of our people, when they come to the set, know exactly what to do. They are professional people within their realm. At times, it's terribly busy.

I go to my dressing room for five minutes, put on my first costume which is hanging there, with the dresser helping me. I get there by 6. I'm always picked up at 5, I get there at 6—and straight into makeup. This is from somebody who has worked and worked and worked for years.

Into this very busy place that people have had no training about—have never seen a set—three children come; one 12, one eight, and one seven. We've never had them on a set before, usually. Something actors try to do is to become more acquainted with children, to know where they're going and what it's going to be like. But it is a very, very frightening experience for a child, and I've seen children just not know where to go while they're waiting. Unless somebody is in charge of children, they don't know what to do. So I think it's so important that the parents or the guardian be given help before they ever get to that set, and I think we have to do that at ACTRA: bring people in so that they learn what a set is about.

Everybody loves children—or one constantly hears how we all love children. But when you are making your living out of children, this gets to be a very difficult position.

I remember on *Wind at My Back*, which was the first time I ever filmed with children—and the first time I ever worked on stage with children was *Anne of Green Gables*. *Anne of Green Gables* was Theatre Calgary. I've never seen such a dangerous set. I was on stage, and I saw a giant piece of set coming, with 22 desks made out of wood and molten iron flying across the stage. None of us knew where to go. I know how to get out of the road, but I had the 22 children. So I can stop and say to the director, "This isn't working up here. You've got to come up here. I'm coming off the stage. I'm not working anymore. I'm taking them with me, and when we get this organized and there are no blue lights backstage so they can't see"—you have to take your job as a senior actor seriously. You have to help. You can help, but in the end you can't change some of the situations you're in.

I found the same thing on *Wind at My Back*, but to a greater extreme. Children who were supposed to be let go at 9 o'clock were still working at 11—and a mother being paid \$500 to allow it.

I'm tired of hearing everyone blame the parents all the time. I think anytime you take a parent who knows nothing about our business whatsoever, who has a child who wants to work in it—they drive them to the audition, they drive them to the set, and they have no idea what to do. They're not going to come up against a producer who says, "That child has to stay here till midnight tonight or he's not going to work anymore." The truth of it is, it wouldn't even work that way, because he's going to be in the series for three years.

In 1995, when I started *Wind at My Back*, what sent me down to ACTRA to say, "Our children are really being brutalized in almost every level of their lives"—do you want to ask me questions?

The Chair (Mr. Grant Crack): Well, yes.

Ms. Shirley Douglas: Or should I keep going? Do you want a speech?

The Chair (Mr. Grant Crack): I'm sure we'd all love to have more than five minutes of being here and listening, but we do have to follow the proper process. So I will pass it over now to my colleagues in government.

Mr. John Fraser: I've got three minutes, so if you need a little bit more time, you can take some of it. Just leave me a minute.

Ms. Shirley Douglas: No, no. You ask.

Mr. John Fraser: Thank you very much, Ms. Douglas. Thanks for your presentation.

I think understanding how a child would feel in that kind of circumstance—you can think of yourself being a 10- or 12-year-old amongst adults. There are not many children who have a level of confidence to be able to know what to do, and it's a pretty scary situation. It is surprising; if you looked at any other industry, these kinds of things would probably be looked at a little bit quicker than this has.

What are your thoughts on the bill?

Ms. Shirley Douglas: I'm very in favour of the bill. I think that if there are discussions to be had, they could be had, but certainly nobody can touch the school time for film and television. We worked very hard to get that, and I'll tell you, that was a struggle. It has been a tremendous battle getting children to school.

We have a little schoolhouse and there's a teacher there, and they have a half-hour session at a time. You can't run around saying, "We'll teach them while they're sitting there having tea." The children have got to be in a schoolhouse. They have to have their bottoms in the chairs. We're not talking about giving them multiplication tables in the back of a car while we're driving them somewhere. School has to be where you come, you sit down and you stay for half an hour. I think it's very hard. I'm very amazed at how well they do in these half-hour segments.

The first year I was there, we had a wonderful teacher. She looked after those children. She came onto the set to

see if they were all right and if they were behaving. This awful word, "behaving"—you're in a place where you don't know what to do.

I found a little fellow walking on the dolly tracks. When you bring a camera down, if it's going to follow you or come backwards—it's called the dolly. The kid was walking on it, and I called him over. I said, "It isn't just that you'll get in trouble; if I try that, I'm going to be in trouble. But I know where to go, so come with me and we'll stay here against this wall."

You have to do your part to look after them—because it's not the way we work. I know a lot of tragedies from the film business, and a lot of it starts at this level, of not knowing who you are, where you are or what's expected of you. Are you supposed to show off when the crew all yell at you? What are you supposed to do?

You need the protection of a building like the school, and you need very fine schoolteachers—not an ordinary teacher. It has to be somebody who can really teach in these half-hour segments and keep them up. Sarah Polley, for example, did very well because she had a great teacher. Her mother, who was an agent, saw that she had that teacher.

1730

Children are left too much—everyone loving them and having them work extraordinary hours in very dangerous situations—so we have to do something.

The Chair (Mr. Grant Crack): Mr. Yurek, from the opposition.

Mr. Jeff Yurek: Thanks for coming out, Ms. Douglas. I just want to ask you about the IPA. I'm feigning ignorance of the whole industry—I'm the first one to admit it. I'm a pharmacist; you can ask me drug questions all you want. What are your thoughts that Bill 71 should apply to productions not governed by IPA?

Ms. Shirley Douglas: Oh, absolutely. Those poor, wee things who are out on non-union sets are being—it's imperative that we get those children under the agreement.

Mr. Jeff Yurek: So Bill 71 should cover the works.

Ms. Shirley Douglas: Yes.

Mr. Jeff Yurek: Okay.

Ms. Shirley Douglas: And 18 and under. I'm not about to change the age.

Mr. Jeff Yurek: That was my next question. What do you think about changing the age from 18 to 15?

Ms. Shirley Douglas: No. In film, absolutely not—and here's one of my reasons that some people may not have thought of. Children are filming in Winnipeg and they get a per diem, maybe \$50 a day, whatever they get, so that they can buy their meals—16, 17, 18, alone in Winnipeg with a bit of cash. Do you think they're going to sit in that hotel room and not go outside? You only get shocked when all of a sudden a child is arrested for marijuana in the middle of Winnipeg: "Oh Lord, what happened?" Well, someone should have been looking after that child. I will not let go of 18 for anything in this world.

In the theatre, that often works better, but it works better for people who have parents who understand

everything. Lots of parents don't understand anything about the theatre.

I like 18.

Mr. Jeff Yurek: How about capping the age at six, for a chaperone?

Ms. Shirley Douglas: Six?

Mr. Jeff Yurek: Yes, that's one of the amendments—I guess it would be live productions—capping it to six, having a chaperone backstage.

Ms. Shirley Douglas: Oh, backstage. Once the chaperone is happy with the situation of how the play is going—

Mr. Jeff Yurek: They disappear?

Ms. Shirley Douglas: They cannot disappear, but they certainly don't need them backstage.

Mr. Jeff Yurek: Did you want—

Mr. Randy Pettapiece: We don't have much time, do we?

The Chair (Mr. Grant Crack): Twenty seconds.

Mr. Randy Pettapiece: All right. If you turn to page 27 of this magazine—

Ms. Shirley Douglas: What's that?

Mr. Randy Pettapiece: That's the one you gave us from ACTRA.

Ms. Shirley Douglas: Oh, yes.

Mr. Randy Pettapiece: You will see my picture in it, and I'm available for autographs at the end of the session.

Laughter.

Ms. Shirley Douglas: I'm lining up first, if you help me with this. If you help me with the bill, I'm with you.

The Chair (Mr. Grant Crack): He is certainly in that picture.

Mr. Miller, from the NDP.

Mr. Paul Miller: Thanks, Ms. Douglas, for coming in. It's really great to see you again.

Why do children need tutoring on a set, and do you think it should be left up to the parents or a local school to monitor the situation? Or do you believe tutors should be on a set with the child when they're needed?

Ms. Shirley Douglas: Well, they are. In film, they're on the set.

Mr. Paul Miller: But in other situations, they're not; like live stage or—

Ms. Shirley Douglas: I know that in New York City, they all go to school above the theatre, but that's a different situation. In some ways, it's different. It's such a large city, and getting there—they come in the morning and go to school upstairs, and then they come down to do the show. You're doing eight shows a week, remember, in a theatre: two afternoons—you've got Monday to Friday, a Wednesday matinee and a Saturday matinee. That is a very hard schedule for me, let alone somebody 10 years old.

Mr. Paul Miller: Is there a difference between the treatment of children on live performance sets compared to recorded performance sets?

Ms. Shirley Douglas: Yes, there is.

Mr. Paul Miller: Could you expand on that?

Ms. Shirley Douglas: Well, I believe that on a stage set, we're all actors—and we're only getting one or two of them brought in. So, there, the adults really do try to help the child as much as they can.

Mr. Paul Miller: How long have you been fighting for legislated child performance protection—legislated, not by regs.

Ms. Shirley Douglas: Well, I've always wanted it because—

Mr. Paul Miller: Guidelines and regs aren't as strong—would you feel that? Legislation is much stronger?

Ms. Shirley Douglas: When somebody says to you, "What you've got there is a kind of contract, but it's not law. We don't have to listen to you. We don't have to do what your little contracted actress says," this really becomes disturbing. That's when my realization of how much everyone loved children started to dim.

I'm merely asking all of you to do the best you can to help us help the children in our industry, because we need it. I can't bear to see a child who doesn't go to school anymore because no one tried. Often, our children are saved because they find what they like to do. Most children who want to be in the theatre or film for a long time really want to do it, so I feel it's up to us to help them achieve that.

Mr. Paul Miller: So would it be fair to say, with all your professional history and your many years of experience in this industry, that you like Bill 71?

Ms. Shirley Douglas: Yes, absolutely.

Mr. Paul Miller: Thank you.

Ms. Shirley Douglas: Thank you very much, all of you.

The Chair (Mr. Grant Crack): Thank you very much for coming. We really appreciate it.

MS. CLARA PASIEKA

The Chair (Mr. Grant Crack): It's my pleasure to welcome Clara Pasioka, part of ACTRA, as well, I believe.

Ms. Clara Pasioka: I'm an ACTRA and an Equity member.

The Chair (Mr. Grant Crack): Welcome.

Ms. Clara Pasioka: Good afternoon, members of the committee and guests. My name is Clara Pasioka. I am an actor. That means I'm a storyteller. Today, I would like to tell you some of my stories and the stories of some of my friends who have worked as minors on sets and stages in our province—true stories, some stories that I don't always say out loud, but I tell you them in the hopes that you can use them for good, and push this bill forward.

I think that people are good, in general. I've worked, professionally, with a lot of people who were mostly really nice. But grown-ups on set, even if they're really nice, can also be really busy and can also be kind of scary to talk to and to ask things of.

I started working as a performer as a teenager. During one of my first big projects, I banged my head when

someone who hadn't seen me was opening a trailer door. I wasn't knocked out or anything, but it hurt a lot. I probably should have told someone, asked for ice and had the medic check to make sure I was fine, but I didn't. I didn't want to make a scene or be a baby or slow things down. Thankfully, I was fine, but what if I hadn't been? If I had been too intimidated to speak up as a teen, imagine how much more intimidating it could be to talk to grown-ups if you're only 11. This is why having a chaperone is important. In that example, no one was doing something bad, but it wasn't someone's job to take care of me. It needs to be.

Between the ages of 16 and 17, I was working on a play. I played an only child in a family, so the other cast members were a lot older than me. They were around the same age as my parents. Because I was a keener academically, I used to have my notes and textbooks with me at the edge of the rehearsal room so that I could do my homework and prepare for exams. But what if I hadn't been such a keener student? I can tell you, a lot of my friends who were actors weren't so nerdy.

You learn so much in rehearsal rooms and on sets, but failing grade 9 or grade 10 math and having to take it over again really sucks, and it's all too easy that it can happen even if you only miss just a few weeks here or there, especially if you're in one of those schools that is semestered, which means that all of your classes are condensed into only three months. This has happened to more than one of my friends who were acting while they were in school and who weren't necessarily provided a tutor and all the time allocation. I think this is harmful. The tutoring requirements highlighted in this bill would help young people avoid the situation some of my friends found themselves in.

Also, FYI, trying to learn math formulas next to someone doing a scene with yelling is kind of distracting.

When I was 17, I was offered the lead in a feature film involving a violent rape scene which was not included in the initial audition material or breakdown. My agent had requested the full script prior to shooting, and it was only then that the scene was revealed to us, along with a couple of other scenes of a controversial nature. I was sort of nervous to do the scenes, but I was so excited and I told myself, "It's just acting." My mom looked at the script, along with my agent, and together they decided that the rape scene was too frightening and too potentially harmful to my own emotional and sexual development for us to go forward with changes being made.

1740

In the end, I lost the job. I was kind of mad at my mom and my agent for a while, actually. I thought I was big enough to decide for myself, but I am so grateful now that I didn't do it, because I wasn't ready to think about the possible repercussions. It was only as I became older that I realized how much I valued my mom looking at the script and making a decision I wasn't ready to make. And even though I don't really like to admit when my mom's right, 17 wasn't 18, and she totally was. I wasn't grown up, not sexually or emotionally or otherwise.

I only work on union sets and stages now, which means that I am lucky enough to be protected by the collective agreement language negotiated by my unions, ACTRA and Equity. I'm not a minor anymore, but because I do play a lot of characters who are in their teens, some of my co-stars are often 13 to 18 in reality. We become friends, and I often forget they're younger than me in real life, because when we're acting, we're playing the same age.

It's actually only every once in a while that something happens that makes me remember. I'm reminded that they might have needs that are different than me, and as much as my younger friends might not always like to admit it, I see how grateful they are when their mom is there to advocate for them when they're feeling really sick on set and don't want to make a fuss, or to encourage production to release them from set as early as possible so they aren't doing a billion hours of overtime. It also makes me happy when they go to the tutoring room to do math, even if I miss hanging out with them, because I don't want them to fail math, either.

When I first learned that there weren't really laws to protect child performers working on stage and screen in our province, I thought it was kind of ridiculous and also kind of scary. Maybe it's because we don't really think about children working, because we don't generally do that in Canada. But here's an exception, a situation where they absolutely do, every day.

So I hope that my stories can help you remember that minors of all ages are working, that they are citizens of this province, that they pay taxes on their income and that they need and deserve the protections offered by this bill, protections that you can ensure by doing all that you can to assist in its passage into law.

It's really not that complicated, and it's not partisan. It doesn't ask you to favour one set of kids over the other. Kids aren't Conservatives, Liberals or NDP. They're just kids, with the same needs that all kids have: to rest, and play, and education and protection from harm. Bill 71 will ensure that those needs are met. This will not affect the stability of the industry in any way, beyond avoiding safety issues that could arise and creating happier, healthier adults.

I know that my unions are looking to extend the great benefits they have negotiated with the industry partners to all child performers, including non-union. This bill doesn't protect minors from everything, and it certainly doesn't make being a young actor a piece of cake. But from my experience on set and in rehearsal as a minor, and then as a young adult working in a lot of projects where a lot of my co-stars are still minors, and even more recently as a producer myself, where I've actually hired a minor, I truly believe that minimum thresholds and guidelines that this bill includes would be an invaluable asset to protecting children in our province.

Thank you, and I welcome your questions.

The Chair (Mr. Grant Crack): Thank you very much, Ms. Pasioka. I believe we're going to be starting with the opposition. Mr. Yurek.

Mr. Jeff Yurek: Thank you, Chair. Thank you for coming in, Ms. Pasieka. Did I pronounce that right? Is that—it's not Polish.

Ms. Pasieka: It is Polish-Ukrainian. My parents are actually Irish, and it kept getting passed down through the males, so I don't really know that much about the history of that.

Mr. Jeff Yurek: Interesting. A question just came to mind, and Doug mentioned it earlier, but I just haven't had a chance to ask this. Is there a law like Bill 71 in other provinces in this country?

Ms. Clara Pasieka: There is a law in at least two other provinces that I know of; I want to say BC and Quebec. So there are two other laws that include things related to that.

Mr. Jeff Yurek: I guess I'll ask you the questions about changing the child performer age down to 15. What are your thoughts?

Ms. Clara Pasieka: I would not be in favour of that. For me, I entered professionally when—yes, I wasn't 10 when I started working professionally, but as I've indicated in some of my stories, and I'd be happy to share others, there are certain things that arise that even though you think you're super-cool and you're just all ready and you like hanging out with the grown-ups, there are certain things that arise, like the story that I indicated—that you're not really ready to deal with certain things on your own.

Just as an example, let's say that I had done that film or a film like it, that had completely controversial material in it, and I needed support from my mother. I was 17 at the time that I would have done it, and if I needed support from my mother—if it's lowered to 15, then I wouldn't have had that.

I think there's a reason that we say children need to be protected and have decisions made for them until they're 18. I think that you're putting children in really high-stakes, sometimes frightening situations. Sometimes, like with me, as a child, even though you think you know best, you don't. I was really mad at my mom for making that decision, and I'm really, really happy that she did at this point.

Mr. Jeff Yurek: I find it interesting: There are TV shows and movies that I wouldn't let my daughter watch; however, there are kids her age being filmed in them. I always wondered how they mitigate that stress to the actors.

Ms. Clara Pasieka: There are definitely a lot of things that can be done on set. I only work on union sets and union plays now, and there are definitely certain things that are included, so that when you're filming certain things, you can protect the children. Let's say you were doing a nude scene, where a naked man approaches a little girl. They wouldn't actually shoot it where the man is approaching the kid, so the kid isn't actually seeing that experience. There are certain things that they can do to protect them. I think those types of guidelines that we have, and having them furthered into law, are really, really important.

Mr. Jeff Yurek: Thanks.

The Chair (Mr. Grant Crack): Mr. Miller.

Mr. Paul Miller: Hi, Clara. How are you doing?

Ms. Clara Pasieka: Good.

Mr. Paul Miller: It was a very good presentation.

Ms. Clara Pasieka: Thank you.

Mr. Paul Miller: Did you ever feel that you had to comply with a direction given to you, even though you felt that it was over what you should be required to do as a child performer; for example, "Leave your lunch there and let's redo this scene now," or something along those lines?

Ms. Clara Pasieka: One thing that I did experience was working overtime on a non-union set. I was on a set for a music video. Everyone on the set was probably 13 to 19. It was during the day. It went overtime and ended at 3 a.m. It was supposed to end at 11 p.m. It was at a random warehouse in Etobicoke, and then it was like, "Cool. We're wrapped. You guys can go home." I was able to call my mom and say, "Hi, Mom. Pick me up." But if someone's mom didn't have a car or something like that, they would have just said, "Oh, well. Get home."

Mr. Paul Miller: As a child performer, other than the incident you mentioned, when did you feel most vulnerable on a set?

Ms. Clara Pasieka: On that same non-union set, it was really, really cold. It was only the second time I was on set, and I didn't want to say anything, even though I was freezing. I was just wearing little leggings, and it was March, and they had fire and wind, so they had all the doors open, and it was really cold. I didn't feel like I should say anything, so I just stood there, shivering and locking my knees so they literally wouldn't shake during the take. I felt scared to say something, and I just felt like I was supposed to be so grateful that I was even there since people are fighting for jobs all the time. So I just felt like I couldn't say anything, even though I was really physically uncomfortable.

Mr. Paul Miller: Would you say, as, before, a child actor, and now as an actress—and young actors, male or female—do you believe that Bill 71 covers areas that weren't covered before, it's in-depth, and it is going to be beneficial to the children in our province who are in film and stage?

Ms. Clara Pasieka: I'm absolutely in favour of the bill. I haven't looked extensively—I don't know the agreements that I've agreed to backwards and forwards, but I think that there's something to it being law. Law is better than guidelines of collective agreements. We have laws because it is the strongest thing that we can do to protect children. I don't know any reason why someone would not want children to be protected by the strongest things possible.

Mr. Paul Miller: I'm glad you said that, because being in unions for over 30 years, I've dealt with many collective agreements over the years, and collective agreements are not set in stone. That's why there are union stewards and grievance procedures. Collective agreements certainly can be questionable at the best of

times, so I would not want to put my whole favour to—just because one group of people signed a collective agreement representing management, that it's going to protect child actors all over our province.

Thank you very much, Clara, for that presentation.

The Chair (Mr. Grant Crack): We'll turn it over to the government. Mr. Dhillon.

Mr. Vic Dhillon: Thank you, Clara, for appearing before the committee. You're still young, and you probably have a lot of experience that is still fresh in your mind.

Do you have friends who are working in the industry but who are not part of a professional association such as ACTRA?

Ms. Clara Pasieka: I do have some, yes.

Mr. Vic Dhillon: Could you share some of the concerns that they have about working in the industry?

Ms. Clara Pasieka: Yes. Definitely, overtime is a really big thing, and not necessarily knowing the full content of something. I don't know how familiar you guys are, but let's say you go out for an audition—it can be like, “Here's a little breakdown about the character,” and then you might get two scenes. You might not get the full script until much, much later, so sometimes certain things, like the issue that I talked about, can pop up out of nowhere. I've had some friends who are over 18, and all of a sudden someone calls them and says, “Oh, we're just going to add this nude scene. Are you cool with that?”—or, for someone who's younger, “We're just going to add this certain aspect. Are you fine with that?” That's why I really like that in MPP Paul Miller's bill, he said that they would get to see the script ahead of time.

Definitely, overtime is a really, really big issue. Certainly, tutoring for people who are younger is just left off to the side and forgotten about on non-union sets all the time. They'll say, “Oh, it's only for four days,” but if you're in grade 9 math and you miss four days, you've actually missed probably a good third of a whole unit in math, if you're in a semestered school.

Mr. Vic Dhillon: Do you want to add anything else? I think we have a few seconds left.

Ms. Clara Pasieka: No, I think that's it.

The Chair (Mr. Grant Crack): You've got about 45 seconds, if you'd like to use it.

Ms. Clara Pasieka: I really like this bill. Support this bill.

Thanks for all your attention and questions and support and for thinking really critically about this.

I will repeat that I would definitely be in favour of tutoring and everything like that continuing in stage beyond the age of 15.

Mr. Vic Dhillon: I just have a quick question about when the production people threw in an inappropriate scene and you decided not to do it. Did they pay you for the work?

Ms. Clara Pasieka: I was not paid for that production at all. I had to rearrange many things in my life, and I was completely not paid for it. It was under a non-union agreement. They just said, “It sucks to be you,” and I had to retract from that.

Mr. Vic Dhillon: So the work that you did was for nothing?

Ms. Clara Pasieka: Any preparation work that I did in advance of that was completely retracted and was something I just had to deal with.

Mr. Vic Dhillon: Thank you very much.

Ms. Clara Pasieka: Thank you.

The Chair (Mr. Grant Crack): Thank you very much, Ms. Pasieka, and I'd like to thank the other five presenters, as well, for coming before the committee today. There's a lot of insight for us to consider as we move this bill forward—and perhaps the odd amendment here and there.

Thank you very much, again, members of the committee, the Clerks' office, Hansard, everyone. This meeting is adjourned.

The committee adjourned at 1752.

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CONTENTS

Wednesday 4 December 2013

Committee business.....	G-423
Protecting Child Performers Act, 2013, Bill 71, Mr. Paul Miller / Loi de 2013 sur la protection des enfants artistes, projet de loi 71, M. Paul Miller	G-423
ACTRA Toronto	G-423
Ms. Sue Milling	
Ms. Kiara Glasco	
Ms. Kimberly Glasco	
Ms. Tabby Johnson	
Ms. Theresa Tova	
Professional Association of Canadian Theatres	G-426
Ms. Lucy White	
Canadian Media Production Association	G-428
Mr. Reynolds Mastin	
Mr. Michael Bawcutt	
Mr. Warren Ross	
Canadian Actors' Equity Association	G-431
Ms. Arden Ryshpan	
Ms. Shirley Douglas.....	G-433
Ms. Clara Pasieka.....	G-435



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Deuxième session, 40^e législature

Official Report of Debates (Hansard)

Monday 9 December 2013

Journal des débats (Hansard)

Lundi 9 décembre 2013

Standing Committee on General Government

Pan/Parapan American
Games review

Comité permanent des affaires gouvernementales

Étude portant sur
les Jeux panaméricains
et parapanaméricains

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Monday 9 December 2013

Lundi 9 décembre 2013

*The committee met at 1508 in committee room 2.*PAN/PARAPAN AMERICAN
GAMES REVIEW

The Chair (Mr. Grant Crack): Okay, I'd like to call the meeting to order. I'd like to welcome the members of the committee.

Today, we have two delegations that will be presenting before us. To the previous motion that was passed by committee, we will start with a five-minute opening statement, followed by 20 minutes of questioning, and then followed by 10 minutes of questioning for each party. I think time might be of the essence towards the end. I don't know if there's any discussion from the committee members if they want to move down from the 10-minute rotation to five—or we can consider that maybe after the first delegation. What is your preference?

Ms. Dipika Damerla: Chair, I just wanted to say that it's possible that the Tory MPPs think that the recess was also for Mandela, because that's how I had understood it, that it was going to be for both Mandela and the Huronia apology. So I'm just wondering—

Mr. Paul Miller: No, we agreed to 3 o'clock.

Ms. Dipika Damerla: Okay. I just wanted to clarify in case—

The Chair (Mr. Grant Crack): For the record, I did have a conversation with MPP Jackson, and it was clear that at 3 o'clock, we would be reconvening.

TOURISM TORONTO

The Chair (Mr. Grant Crack): Having said that, it is my great pleasure to welcome Mr. David Whitaker, president and chief executive officer of Tourism Toronto. Welcome, sir, and we apologize for the delay. I'm sure you're a busy, busy person.

Mr. David Whitaker: I contributed to the budget. I had a salad downstairs.

The Chair (Mr. Grant Crack): Excellent. We thank you for that.

Mr. David Whitaker: I'm aware of the time frame, and I'll try to stick to my part and also welcome an opportunity to answer any questions.

Just for the record, again, my name is David Whitaker. I have the privilege of being the president and CEO of Tourism Toronto, also known as the Toronto Convention and Visitors Association.

I'll just say up front that a lot of people, especially if they're not that familiar with us, wonder sometimes whether we're a city department or a governmental agency. We're probably kind of a lot of things. We are a separate, non-profit organization and association with an outstanding board of directors.

We are primarily funded two ways. We are RTO number five in the new regional tourism organizations province-wide, through the ministry, representing the cities of Toronto, Brampton and Mississauga. That's our RTO region. We have a contract with the ministry for some critically important funding. In the coming year, it will be just under \$10 million.

Then the bulk of our funds come through a contract with the Greater Toronto Hotel Association. There are about 70 hotels that are members of that contractual relationship, so oftentimes I say that we're representing those 70 hotels. As you can appreciate, heads in beds; overnight visitors; events that attract visitors; conventions that we solicit; public relations around the destination; creating buzz for the destination; our work around the world, especially in key source markets for attracting international visitors; and our work primarily in the United States to bring Americans across the border for overnight visitation is kind of our mandate.

We're known for a lot of things. We book very high-profile events. When the big Microsoft convention was in town last year, and the 15,000 people who were here for the Microsoft convention—that's a big part of what we do. We have a relationship with the Metro Toronto Convention Centre, a provincial asset that we work very closely with.

We are quite proud that—in fact, we had the privilege of working behind the scenes—and by the way, we like working behind the scenes—to help organize the initial bid for bidding on the Pan Am and Parapan Games. I had the privilege of working with David Peterson at the time—a small working group. As you can appreciate, our primary focus was organizing the hotel blocks for hotels for that event, as well as really putting on a great show, in terms of the bid book and presentation and the kinds of things that we love to do to put our best foot forward.

I'm aware of your interest in and the focus on the subject of the day, the Pan and Parapan Games. I'm happy to answer any questions, especially in the context of our work. We're not officially members of the host committee.

I do have with me Andrew Weir. Andrew is our vice-president of communications. He's our primary point person working with TO2015 and also working with Steve Harlow and some of our other great partners here at the province, on the provincial staff side, to really just keep the ball rolling as things start building up. Like I said, I'll perhaps stop—

Interruption.

Mr. David Whitaker: —and be happy to answer any questions. I didn't know if that was a heckler, or—is that a common thing?

The Chair (Mr. Grant Crack): I'm not sure. Well, thank you very much. Would you want Andrew—I didn't get his last name—

Mr. David Whitaker: Andrew Weir.

The Chair (Mr. Grant Crack): Weir. He would be more than welcome to participate if there are any questions, perhaps, that he could answer as well. It's your choice.

Mr. David Whitaker: I answer the easy questions, and then I have Andrew here to—

The Chair (Mr. Grant Crack): If you would like to have him come forward, that would be fine.

Mr. David Whitaker: Sure.

The Chair (Mr. Grant Crack): I don't think the committee would object to that.

Okay, what we'll do is we'll start with the government and we will go with the opposition and then the third party. You have 20 minutes: Ms. Damerla.

Ms. Dipika Damerla: Thank you, Chair. Thank you so much, Mr. Whitaker and Mr. Weir, for coming down today. We apologize for making you wait some time. It's all for a good cause. I hope you had a good lunch.

Mr. David Whitaker: It was the best salad I had all day.

Ms. Dipika Damerla: Okay, that's good to know. I'll pass it on to the chef.

Mr. Whitaker, I'm going to begin by saying that you're an expert in tourism, and one of the reasons we brought you here today is to get your sense that—these games are probably among the biggest games ever held in Ontario—for that matter, even in Canada, because I know that the Pan/Parapan Games are going to be bigger than the Winter Olympics.

Given the scale of the games, I wanted to get from you a sense of the tourism potential of these games, and, in your opinion, if you could guesstimate, what that might mean for Ontario's GDP, what it might mean in terms of revenues for our hotels, our entertainment district, our travel. Once they come here, hopefully, they will also go to Niagara Falls and all of those other things. So I just wanted to get a sense of (a) what you are doing to promote the games and (b) your sense of what the economic value of these games is to the province.

Mr. David Whitaker: I'll answer that question in the two parts that you posed it—first, in terms of the impact, the economics of the games: As you can appreciate, we focus initially and almost primarily on room nights. That's just such an important barometer for us when we

evaluate the number of people who actually travel here—near and far, but who travel here and actually consume a hotel room. As you can appreciate, over 250,000 people are directly employed in the tourism industry. Filling our hotels has a lot of side effects. Not only is that beneficial to the hotel per se, but those visitors, then, of course, are dining in our restaurants, taking public transportation, accessing other parts of the city.

So as I led this conversation in my opening remarks, having over 25,000 hotel rooms consumed in and of itself makes it one of the largest events you could host in a city. We only have about 40,000 hotel rooms in the entire GTA, so having those 25,000 rooms consumed has a direct, obvious economic impact.

In our visitor research, a visitor who stays here for a three- or four-day event, as in this case—it can get close to almost \$1,000 per visitor in terms of their hotel stay, their meals; everyone loves to shop when they're visiting. So you can appreciate that 25,000 times \$1,000 goes a long way in terms of the direct economic impact.

I would tell you, with much respect, that what gets me more excited than—because there are dozens and dozens of events that we could attract that host 25,000 rooms: big conventions like Microsoft, for example. But what gets me more excited is the profile that this event can give us, especially in the target audience that we're talking about. I talk about the 10 million overnight visitors who come to Toronto and the GTA—

Ms. Dipika Damerla: Sorry, did you say 10 million?

Mr. David Whitaker: Ten million a year.

Ms. Dipika Damerla: A year.

Mr. David Whitaker: Annually. About six million of those are from Canada, and that's a pretty stable number; about two million—it has been an up-and-down number, dependent upon the economy—from the United States; then it has been about one million to two million from our major markets, whether that's Asia, Europe etc.

South America has tremendous potential—South and Central America, Mexico, Brazil, Chile. Those are real opportunity markets for us at Tourism Toronto. Currently, we're receiving maybe close to 200,000 overnight visitors from South and Central America, and it's growing pretty strong, but we feel that number has tremendous potential to grow. Brazil is a great example, and Mexico—before the visa change, we were receiving almost close to, in the good old days, 100,000. The visa change knocked that down for a variety of reasons, but we're growing again.

So we feel at Tourism Toronto that South America, which is directly a corollary to the Pan Am Games—of the 41 countries, an overwhelming percentage and the big countries that are involved are what we call Latin American countries: Mexico and then, of course, South and Central America—and the Caribbean. Of course, we have our own relationships in the Caribbean. But these games are critically important to them. There is a long history of passion and involvement, especially as a lead-up to Brazil hosting the Olympics.

We see the Pan Am effort as a platform, really, to engage with Central and South Americans, and we're

already doing that. We just, in fact, a few weeks ago during the PASO events, brought in—and Andrew does this work for us. We brought in 30 journalists from some major publications throughout the key markets—like I said, Brazil, Chile and Mexico—not just writing about the games, but writing about why we’re one of the best cities to be considered to host these games.

David Peterson coined the phrase, “Where every game is a home game.” We remember that from the under-18 World Cup, when we had the FIFA World Cup here, the under-18. When Argentina was playing Chile, the stadium was full of Ontario’s Argentinian and Chilean community. We know the diversity of our community can be a great backdrop. So our ability to connect our diversity, especially in terms of the South American, Central American and Mexican community that’s here, and the ability to have that connection culturally and other aspects with Central and South America is a great forum for us. It extends well beyond the direct impact of the games. It gives us a forum to talk about our diversity. It gives us a forum to talk about our own cultural relationships with those markets.

So the economic impact is both direct, the 25,000 room nights, the exposure, which—in fact, we are making a lot of efforts to build that exposure well before the games. But it’s not just about promoting—and there are others who are going to focus on the athletics of the games. That’s not going to necessarily be our expertise. We’re promoting Ontario and southern Ontario and this province as the ideal place and why cultural diversity matters and why this relationship extends beyond the pitch, the field, the track.

1520

Ms. Dipika Damerla: Now, have you been involved with any other marquee events, like TIFF, the Grey Cup, the Honda Indy, and marketing them?

Mr. David Whitaker: Yes. I mean, I think perhaps people sometimes think maybe we—and I don’t want us to take too much credit. We try to market everything we can get our hands on to market.

Ms. Dipika Damerla: So, based on your experience with something like Caribana or TIFF, would you be able to speak to the increase in the number of tourists that takes place in Toronto because of events like this?

Mr. David Whitaker: You know, in my work, I try not to make too many projections that I don’t necessarily have my hands around. Because of our mandate and our contractual relationships, we focus on those 25,000 hotel rooms that are going to be consumed. We focus on the journalists who are coming, because of the stories they are going to write and already are writing about our destination and about our province. An article in a major Brazilian newspaper—there could be a \$50,000 value to that article if we had to buy advertising in that same publication.

Ms. Dipika Damerla: I did some quick math. Based on your numbers, one can expect, just from the hotel industry, to generate about \$25 million; 25,000 hotel rooms times \$1,000—

Mr. David Whitaker: But, again, it’s 25,000 hotel rooms, not necessarily 25,000 people. Okay?

Ms. Dipika Damerla: Yes.

Mr. David Whitaker: So each group is about—you know, there could be some double occupancy in there etc.

But I think, based on the \$1,000 per party visit, your math is absolutely a good focus, in terms of the hospitality impact. Like I said, beyond that is really the value of us and our profile in this source market. A lot of folks are talking about whether it’s our international banking or international trade—even the mining industries, for example. Our relationship with South and Central America has tremendous potential to grow. The theme of this event, the Pan/Parapan Am Games, in Central and South America is a great platform for us to establish all kinds of linkages that are going to well exceed and live beyond the Pan Am and Parapan Am Games.

Ms. Dipika Damerla: Now, any big event like this has a multiplier effect well beyond the obvious, which are the hotel rooms or the public transit or the cabs. It trickles right down to that hot dog vendor at the corner of the stadium. So, tell me, what is this going to mean for small business in Ontario, especially the GTA, as we host these games?

Mr. David Whitaker: I think it’s probably safe to assume that—you look at the modules or you look at where the events are for that on-the-street impact that you’re talking about. Clearly, it extends around the footprint of the hotels, and there again it’s hotels in Hamilton and hotels in downtown Toronto and hotels in Mississauga—it depends on where the events are; right?—North York etc. So those are kind of those hot spots where the events are happening, where the fans will be congregating, where they’ll leave after and before an event to grab that hot dog etc.

But we also know that when people attend events, they’re not just here for that event; they’re here to have fun. That’s why I think one of the things when we look at hosting—

Ms. Dipika Damerla: Sorry. Chair, I’m having trouble hearing because there are many conversations.

Mr. David Whitaker: I think that when we look at hosting these events—again, through the work we do with the journalists as well as the buzz of them going back home and saying, “Wow, I can’t believe Toronto. I’ve never been there before. What a great city.” There’s value to the word-of-mouth promotion, where people who have a great experience are more apt to return in the future. Maybe they were here because they were affiliated with the track and field team from their country; maybe the next time they come back, they bring their family or they make linkages that make us an ideal visitation—

Ms. Dipika Damerla: Can you speak to some of the partnerships you may be trying to forge in advance of the games to help promote them?

Mr. David Whitaker: You know, I’m not sure we’re the lead organization, to your question about—I know

that TO2015 has a whole partnership program, and they'd be more well versed to talk about that than I am.

I know as marketers—I have to tell you, I can't tell you how important these journalists are who we're working with, to have them come. We can't put words in their mouths, but when they come and see the city and the community and the province, it sells itself.

We also are going to do an awful lot of social media. That's the new world we operate in, so getting buzz and getting chatter and getting conversations, not just about the games but about why we're an ideal city to host these games—again, using that platform of diversity that has been so successful for us. All of that will go into the mix.

We don't have a dedicated marketing campaign just for the games, nor do we have a—TIFF is as much a celebration of our city as it is a celebration of our film industry, and it's hard to draw the line between one and the other; not that that's what you were suggesting. But it really is an overall destination sell and feature.

Ms. Dipika Damerla: Just moving on to what's particularly special about the way these games have been planned—the legacy piece. One of the challenges, as we all know, is that you can build all these very, very large stadiums, but then the games are over and they're a shell of themselves. We've seen that happen, and this government has been very, very careful to make sure that whatever we build for the games will be used long after the games are gone and will be of use to our citizens and will not become the proverbial white elephant. A lot of thought has gone into that. Would you like to comment on where you see the legacy piece and how that might help you promote Toronto?

Mr. David Whitaker: Well, most of you don't know me well—I like to joke a bit, so I will profess and wear my Argos hat, because I'm not necessarily a Hamilton CFL fan. That facility is going to have a life after the event, of course.

Interjection.

Mr. David Whitaker: I knew I'd get a reaction from the Tiger-Cats.

To have a world-class, by standard, by spec, swim facility—it's going to be a facility that will be used not only to improve our own performance in games, but it will help us attract other swim-related events in the future.

The same thing at York University, that facility—we just had the Ontario Summer Games recently, a great collaboration with the province, the ministry and with the city of Toronto.

Most sporting events need facilities. They need that track. They need that pitch. They need those facilities. If you don't have the facilities, you're not going to be able to compete with other parts of our country that have superior facilities. So facilities are a big part of what we're doing in terms of sport tourism.

So to your point, you're absolutely correct. These enhanced and improved facilities will allow us to solicit and bid on other sporting events in the future. And just like the Pan Am Games—maybe on a more amateur level

and a localized or even a Canadian level—with that come teams, come coaches, come fans, come parents, comes economic activity.

Ms. Dipika Damerla: The other thing we've done really well with these games is—in the past, the tendency was to centralize all of the venues in one place—we've made sure that we have distributed them across the GTHA, so that going forward the benefits of the various sporting complexes are distributed amongst taxpayers, as well as the fact that each city now has a marquee piece to market, bring sports. So it's not just Toronto-centric, but, as you mentioned, this—

Interjection.

Ms. Dipika Damerla: Oh, sorry.

There's Mississauga and Hamilton. There are all sorts of places that are going to benefit from these games.

Mr. David Whitaker: You're absolutely right. In fact, the visitor doesn't necessarily have the boundaries that we sometimes live with ourselves. A visitor doesn't know they're leaving Mississauga, coming to Toronto, then going to Markham or down to—even when they go to Niagara Falls, they kind of think of that as our—and quite frankly, as we market it, it is our Niagara Falls.

You're absolutely right: The regional approach provides an opportunity for the entire southern Ontario region to benefit.

Ms. Dipika Damerla: The other thing that's very surprising—and we can all take credit—is the fact that, so far, the games have been on time and on budget. I just want to hear, from a marketing perspective, from a tourism point of view, how important is it that games and the infrastructure that goes with it comes on time, on budget?

Mr. David Whitaker: That's an area that I'm not necessarily an expert at. But to your premise, which I'm aware of—it's almost that you're better off with what you have than what you don't have. What we don't want is to have stories written about how we weren't able to be on time, that things weren't done, that there's chaos. I remember the Commonwealth Games, recently—I can't name the city in India that was hosting the Commonwealth Games—story after story about how they weren't ready, and that has an impact. Even in Vancouver, there was an effort by England as they were getting ready to host the next—I think it's more of a country rivalry.

What you don't want are stories about, “They weren't ready,” because it speaks to our capacity; it speaks to our leadership, quite frankly; and it speaks to our ability to host events—having a reputation for being able to host events like a big Microsoft convention, one of the biggest film festivals in the world, athletic events. Whether it's security, whether it's ease of operation, the sense of arrival, the sense of welcome—all that goes into the reputation that a destination has.

So I'm encouraged to hear that things are on track. That's important because having them not be on track and not being prepared has a lot of negative consequences that really speak to the entire reputation of the entire community. I would never want that, of course.

1530

Ms. Dipika Damerla: One of the things that I really liked about these games is that we always say the Pan/Parapan Am Games. We don't just say the Pan Am Games. We've been very, very careful about making sure that we always say the Pan/Parapan Am Games because this is probably going to be one of the most accessible games ever. That is really important. It shows an evolution of Ontario as a society as well. I just wanted your thoughts on making these the most accessible games ever. Does that give you something extra to market our city?

Mr. David Whitaker: Absolutely. In fact, it goes beyond just the Parapan Am Games, I think, and—to the Legislature's credit—some of the great work that we're doing as a province in being accessible and providing equal opportunity, and equal access is something that we all should be quite proud of. There's an opportunity to really promote that during the games themselves.

Ms. Dipika Damerla: Chair, how much time do I have?

The Chair (Mr. Grant Crack): Two minutes and 51 seconds.

Ms. Dipika Damerla: Okay. It's been really great talking to you. We're going to have to sum up. I just wanted to say, if you could just sum up for us what these games mean for you, as somebody who is in the trenches promoting tourism for Ontario. What are these games going to mean?

Mr. David Whitaker: Again, what I would hope you would expect of us as one of your servants, if you will, or one of the people you entrust—and a lot of our partners entrust us to be great marketers and great promoters. We're trying to make sure that we take full advantage of the games well in advance of the games. That's, like I said, introducing our destination, our province, our great communities—southern Ontario—to an important audience that we think has great growth potential. Many of these journalists that we just brought here, for example, the 30 journalists from some of the leading publications in South America, they would not necessarily have accepted our invitation of, "Hey, just come up to Toronto, we want to talk to you about our great nightlife or our great restaurant scene or our great arts and culture scene." They may, but clearly the interest that the Pan Am Games have is a great hook to get them interested in us as a destination, as a community, as people, as a country and as a province. I see that as kind of the advanced buildup for the games.

You mentioned the legacy piece, having improved facilities to help us bid on other sporting events down the road—tremendous opportunity. I love the fact that now dozens of things that may not even be related, whether it's Union Station, the train link—all of a sudden, everyone's saying, "We've got to get all this ready before the Pan Am Games." That has been a great stimulus in itself, quite frankly, for getting a community to say, "We want to be the best. We want to be organized. We want to have facilities that are top-notch." We're focusing on

everything from transportation to infrastructure to the look and feel of the community, right? Getting a community to take great pride in being great hosts has a lot of residual effect. Creating a reputation where, "Hey, this was one of the most successful games of all times, in terms of sponsorships, in terms of organization." That builds our reputation for hosting and bidding on other major marquee events in the future. So it can really be a coming-together stimulus, if you will.

At the end of the day, in my business, filling 25,000 hotel rooms has huge economic impact to our hospitality industry.

Ms. Dipika Damerla: Thank you so much. You tied that up so well.

The Chair (Mr. Grant Crack): Thank you very much. We'll move to the official opposition: Mr. Jackson.

Mr. Rod Jackson: Thank you very much. I just have a couple of quick questions for you, Mr. Whitaker, and thank you very much for coming today. I know some of these things are difficult for you to answer, perhaps, because you're pretty much in charge of executing some of the directives that you're given, and maybe less involved in the grand scheme of things. But today, there has been some concern among local and provincial advocates for people with disabilities that the games aren't doing enough to accommodate—ironically, given the fact that it's the Pan/Parapan Am Games—people with disabilities. I'm not talking about the athletes; I'm talking about the tourists that are actually going to show up and watch these games. Can you tell me what your organization is doing or what kind of focus you have on making sure that those with disabilities who come to see the games are going to be accommodated to the best ability of this—

Mr. David Whitaker: Well, you were kind in setting up the question by saying that's an area that I might not have a lot of direct involvement in, and I don't. I'm not sure how I can answer a question of something that I'm not necessarily involved in and directly working on.

Mr. Rod Jackson: Okay.

Mr. David Whitaker: Now, having said that, I don't want to evade your question. I want the GTA, Toronto, southern Ontario to be the most hospitable, welcoming place in the world to all visitors. Whatever barriers there are to people with disabilities, I want to make sure we follow the law and the standards. I know our hotel community operates under some very strict standards, our restaurant community, our public and performing arts facilities etc. I want us to be a world-class city in meeting the standards. I'm not aware, with much respect, that we're falling below those standards.

Mr. Rod Jackson: Okay. Is it fair to say you haven't received any directives from the organizing committee or from the secretariat on goals to achieve or certain standards to achieve specifically with respect to the Pan Am Games?

Mr. David Whitaker: I'm going to pause for a second, because Andrew has been more involved. I'm not sure if we've received directives.

Mr. Andrew Weir: Well, the organizing committee has made it clear that it's a commitment and a priority. I'm not sure we've gotten down to the level of all the specifics of what is expected of whom yet, particularly because our area tends to be on the marketing side, not on the developing venues and creating some of the infrastructure side. I know a lot of that work is active right now, but our work tends to come in in the later phases, when it comes up to actually marketing this product.

We're certainly well aware that it's a priority, but it hasn't yet come to us as something for us to be involved in. That would normally come soon, but we wouldn't have expected it yet.

Mr. Rod Jackson: Okay. Thank you.

Mr. David Whitaker: But I want to reassure you, we stand ready. We want to be making sure that we don't come up short in that area. We would be very willing to try to play a role there.

Mr. Rod Jackson: That's good to know. Thank you.

The one thing I know that other games have found, whether it's the Olympic Games, the Pan Am Games or the Commonwealth Games, whatever world event we have—there has been a constant issue that seems to go unnoticed, I think, by a lot of the organizers. That is that we're going to experience a higher-than-normal volume of tourists in Toronto, but at the same time, there's still going to be the regular stuff that's going on in Toronto, the regular—

Mr. David Whitaker: The cool stuff.

Mr. Rod Jackson: Yes, there are all kinds of things that are still going to be happening. The same sort of tourist influx is going to happen anyway. A lot of times in London, they experienced this; they weren't ready for the multiplier effect. So they had all the people coming for the games and then all the people who are just going to come there anyway because it's a world-class city, like Toronto is. What are you doing to prepare for that situation?

Mr. David Whitaker: Again, not that I'm suggesting this was your point or your premise, but we are routinely hosting major conventions all the time. I mentioned Microsoft, where we brought in 16,000 Microsoft executives from all over the world. We do that kind of quietly and effortlessly, whether it's a major medical convention, a major pharmaceutical convention or a teachers' education thing. We routinely, in the Metro Toronto Convention Centre, which is one of the best-run facilities in North America, quite frankly—and as a provincial asset, you should be very proud of that facility. That's our job: to host these big events.

We just announced the other day the NBA All-Star Game. I'm a big basketball fan. It's hard to be a basketball fan with the Raptors sometimes, but I'm a big basketball fan.

Mr. Rob Leone: They won last night.

Mr. David Whitaker: Good. I went to bed. It was a west-coast game; I couldn't stay up late.

But the NBA All-Star Game, bringing 17,000 fans for that event—I was questioned a lot: "Oh, gosh, our streets are already crowded enough." In fact, I sometimes think that the visitors who come—because again, it's the shuttle system that they're going to be on—are not necessarily in their cars, driving all over the Gardiner. Some of the challenges that we face in terms of volumes, our own frustration, my own personal frustration with traffic etc.—conventions and organized events actually help mitigate that, because they're not necessarily the people who are causing all the traffic jams. So we have a good history. I think Toronto can be very proud and the province can be very proud of our ability to host big events.

Now, is everyone in this room aware that congestion and traffic, the challenges that we all face, are a big issue, just like they are—New York is going to host the Super Bowl. There's a lot of discussion about how they're going to be able to pull that off with all the traffic problems of New York. What a good problem to have, in terms of thousands and thousands of visitors. But that's the essence of great logistics. In fact, my colleague and someone I have tremendous respect for, Steve Harlow, is going to talk about some of those logistical plans later on.

Our ability to pull that stuff together and plan for it gives us the reputation of being a big-event city. We've always been that way, and some of the big events that we've had here—there are the grumbles when we close Exhibition Place and have the Honda Indy race there. It depends on what side of the fence you're on, whether you love that event, or it's an inconvenience for you; or a marathon that's used for a wonderful charity but still closes my street on that weekend, and I want to go to the mall. The balance of all these things, the logistics, is really the key, I think, in terms of not having the scenario that you're talking about, which is crowds and too many people.

1540

But if we weren't going to host the Pan Am Games, I must reassure you, we would have been bidding on four or five other things that weekend and that month to bring to this community. We're constantly bidding on—for example, our goal each year is to bring 500,000 room nights. That's our performance goal. If we don't win that bid, we'll go after that event. It's to fill this community, those 40,000 hotel rooms I talked about, and our convention facilities. It's to fill them up with activities year-round.

Mr. Rod Jackson: Good. Sorry, we have a finite amount of time. I've just got another question for you that I want to get in before we pass it on to our colleagues over here. You're the present chief executive officer of Tourism Toronto, right?

Mr. David Whitaker: Yes, sir.

Mr. Rod Jackson: Do you have a specific budget that has been given to you through the Pan Am secretariat,

through the province of Ontario, to help promote the Pan Am Games through Tourism Toronto?

Mr. David Whitaker: We have not received, nor would we necessarily be asking for, a budget. We have a marketing budget already.

Mr. Rod Jackson: So you're operating completely on the city of Toronto taxpayer, the one taxpayer.

Mr. David Whitaker: It's not the city of Toronto. Essentially, we're funded two ways. I mentioned—and again, I apologize; I might have said that before you walked in.

Mr. Rod Jackson: Perhaps, yes. I'm sorry.

Mr. David Whitaker: That's okay. We have a contract with the Ministry of Tourism, Culture and Sport that generates just under \$10 million. We have a contractual relationship with the province, with the ministry, as a region, RTO number 5. The other 60% of our funding comes from a contract with the Greater Toronto Hotel Association, a destination marketing program. We have about 70 hotels. We're like a giant advertising agency/PR firm for these 70 hotels. They pay us to fill their hotels.

Mr. Rod Jackson: Okay, I got you. Thanks. Sorry that I missed that at the beginning.

Mr. David Whitaker: It's okay.

Mr. Rod Jackson: For the provincial portion of it, the part that you get from the ministry, who do you answer to for your budget on that? Who watches that? Who oversees that?

Mr. David Whitaker: Well, two answers: One is that the contract itself has a series of reports and documents. There are quarterly, semi-quarterly, annual and even post-annual reports. It's very thorough reporting. You can appreciate the documentation that goes with that.

Mr. Rod Jackson: All public?

Mr. David Whitaker: I'm not sure. I'd have to refer it to the ministry. These are reports that we fill out for them. They're not directly attributable to the Pan Am Games.

We're a non-profit organization. Our annual budget is approved by our board. I'm very proud of our governance. We have an outstanding board of directors, an audit committee. We're pretty well vetted through a variety of standing committees in our board.

Mr. Rod Jackson: Do you receive that ministry money, the same amount every year? Do you apply for it? How does that come to you?

Mr. David Whitaker: It's a contractual relationship. We're just completing the second year of a two-year contract. We'll be talking soon about future contracts. It's part of the annual budgeting process that we work with the ministry.

Mr. Rod Jackson: Are you required to break that down? In other words, does the ministry require you to use that budget for anything specific, or is that up to your discretion as a—

Mr. David Whitaker: It's a combination. Again, I want to make sure I answer your question or don't miss your point. It's a combination of putting a marketing plan and a budget together and presenting that. It's also a very

thorough review within a collaboration. They're actually working, to their credit, on collaborating so that Niagara and Toronto and Markham and even Ottawa—in some of the things we work on, especially internationally, there's a lot of encouragement to coordinate and collaborate together.

It's a very thorough marketing plan. Then we have a whole series of reports where we report on our activities, and we're audited, and those kinds of things. It's a public audit. We're very comfortable with the documentation process. I'm not sure if that's to your question—

Mr. Rod Jackson: No, it is; it answers my questions. Thank you very much. You answered my questions.

The Chair (Mr. Grant Crack): Mr. Leone.

Mr. Rob Leone: Thank you very much. Sorry, I also missed your opening, so I apologize for that. Do you know the signage that we see along the roads: Is that something where Tourism Toronto is going to be directing traffic and directing people to different venues? Is that what you're involved with?

Mr. David Whitaker: We're not involved in that. I am aware of the TODS program, as I believe it's called. We're not directly involved in that. We have filled out surveys. They routinely survey us—

Mr. Rob Leone: Is that program going to be responsible for signage for the games?

Mr. David Whitaker: I would not be aware of that. It's not our program.

Mr. Rob Leone: Okay. That was the only real question I had with respect to that. The other thing that I had was with respect to those reports that you were talking about, which you report back to the ministry. Did any of them contain elements that related to the Pan Am Games?

Mr. David Whitaker: Not that I'm aware of. I mean, when we hosted the 30 journalists, I'm not sure we said, "These 30 journalist were here to write about the Pan Am Games." That's what the hook was to get them here.

Mr. Rob Leone: Right.

Mr. David Whitaker: But as I said earlier, we're really featuring using the Pan Am Games as a hook to sell the totality of the destination.

Mr. Rob Leone: So when you're hosting 30 journalists, is that paid through a hospitality budget through Tourism Toronto? How does that work when—we're trying to sort it out. Your hook is Pan Am, but not necessarily. It's about promoting Toronto, I would assume.

Mr. David Whitaker: Correct.

Mr. Rob Leone: So is it through your hospitality budget that that reception would be paid?

Mr. David Whitaker: We're not in the business of receptions. I mean, we fly journalists here. We have a contract with air carriers; we have a special rate that we can apply based on our volumes. We're flying in people from all over the world. We work with our host hotels. Oftentimes, they'll host. It depends on the journalist. If it's a big-time journalist, they may agree to host them for

free because it's an honour to have that journalist in their hotel.

Mr. Rob Leone: Promotional.

Mr. David Whitaker: Yes. For some of the other journalists, we have a special rate with the hotel. We'll pay a discounted rate or what have you.

Mr. Rob Leone: I just wondered to what extent it actually happened in the tourism world. We hear, and obviously it made the news, that all these lavish receptions were held by Pan Am execs. I wondered, how could we compare those? I wondered if you had any comparisons. Now you're telling me that that's not typically the way Tourism Toronto works or operates, so you're probably not going to be able to answer my question.

I'm curious as to the comparisons of major sporting events that you might have been involved with. Again, I'm going to ask the question, but I don't think you're going to be able to answer. How do we compare in terms of the scope of these things? Because Pan Am in itself is a big draw; it's a major, world-class event. Yet we're spending obscene amounts of money—to some people it seems to be obscene amounts of money—to host people who are going to naturally come here anyway. Do you have any comments on how it compares to other—

Mr. David Whitaker: Well, I'm heartened by the fact that you suggested I'm probably not going to be able to answer that question, because it's just not my area of expertise.

Mr. Rob Leone: Right, okay. That's fine. Thanks.

The Chair (Mr. Grant Crack): Okay, thank you very much. We will move to the third party. Mr. Miller.

Mr. Paul Miller: Good morning, Mr. Whitaker.

The Chair (Mr. Grant Crack): Morning?

Mr. Paul Miller: Good afternoon. It has been a long day. Anyways—

Mr. David Whitaker: We'll hold the Hamilton Tiger-Cats remarks—

Mr. Paul Miller: Yes, I hear you.

You're obviously promoting the private sector as well because you're representing hotels and receptions that people have during the Pan Am Games in all the venues they'll have the ability to take in.

You know, one of the biggest concerns and why there has been this big investigation in the Pan Am Games is the concern of the taxpayers' dollars. The government at this point is saying that they're on time, that there are no costs. Well, I lived through Expo 67 and the Olympic Games in Montreal, and all the way through Mayor Drapeau of Montreal was insisting that everything was hunky-dory and there would be no overruns. Well, they were paying for that 20 years later, and I hope that's not the case here. I hope your organization, through its marketing, will be able to alleviate some of the cost to the taxpayers with the influx of tourism dollars. Certainly, I'll be watching that closely.

Could you detail some of the contracts that you have with TO2015 or other persons or organizations representing the Pan/Parapan Am Games?

Mr. David Whitaker: Yes, and again, I'm glad that Andrew is here because he's kind of my direct liaison. We don't have, to my knowledge, any contract with TO2015. We have a memorandum—

Mr. Andrew Weir: Memorandum of understanding.

Mr. David Whitaker: A memorandum of understanding.

Mr. Paul Miller: Okay.

Mr. David Whitaker: You want to talk, maybe, about what that is?

Mr. Andrew Weir: Sure. It essentially outlines the areas where we'll collaborate. It outlines how we will work with them to promote the games. A lot of it is focused, as David said, on the media, so we'll have a presence in the media centre. We'll work to do a lot of advanced promotion.

David has alluded to this: A lot of the key Pan Am markets like the US, Brazil, Mexico, Argentina and Chile are priority tourism markets for us already. So a lot of what the memorandum of understanding covers is that we're active in these markets and they have an interest in a presence in these markets; how do we bring our activities together with theirs? So it really covers a lot of what we're doing, what they're doing, bringing them together, and that's essentially what it outlines.

Mr. Paul Miller: Okay.

Mr. David Whitaker: Mr. Miller, I just want to add, with much respect, tomorrow, for example, we're hosting a meeting at the Westin hotel. We've got a 150 hoteliers, so we're bringing our hotel community together, just as an orientation. We'll do this dozens of times. We do this for the Grey Cup; we do this for every big convention—just giving them an opportunity to be aware of what's going on, how they can be prepared. We need to make sure that there are multiple languages, there's capacity for people who aren't—

Mr. Paul Miller: So, basically, you guys are in the marketing business and promotion. That kind of sums it up, doesn't it?

1550

Mr. David Whitaker: Yes, marketing, promotion and hospitality.

Mr. Paul Miller: Okay. Is Tourism Toronto licensing any of the Pan Am/Parapan Am Games mascots and other memorabilia? And what are the terms of those contracts, if you have any?

Mr. David Whitaker: To my knowledge, we don't have any.

Mr. Andrew Weir: We have no licensing agreement with that.

Mr. Paul Miller: Nothing? Okay, that's good. What other financial incentives have been negotiated between Tourism Toronto and TO2015? Any other incentives other than your memorandum of agreement? Nothing?

Mr. David Whitaker: No. Mr. Miller, maybe I'd want to know more. I think the answer is going to be no, but I'm not sure of any financial incentives or what you might be alluding to. But we have no—

Mr. Paul Miller: Okay. I won't get into it any deeper until—if anything happens.

There's going to be a big financial—but the parliamentary assistant mentioned that it's going to be a great thing for Ontario, and there's no doubt about it. However, she mentioned that they had reached out to all major parts of the province, and I don't think that's quite accurate, because I believe the fifth- and sixth-biggest cities in Ontario have gotten nothing; that would be Windsor and London. So I'm not quite sure they reached to southwestern Ontario for some of the events, which would have been nice. That didn't happen.

Certainly in Hamilton, we've got the soccer, which is a huge thing, and the stadium. There have been some discussions with myself and the tradespeople in Hamilton that they don't believe—these are their words—that it really is going to come in under budget. There are some electrical problems, electrical contracting problems, wrong tendering and that, and I'm dealing with that right now. So they're going to have something to say probably in March or April, if things are still not on budget. The government keeps announcing that everything is hunky-dory, everything is on budget, but that's not what I'm hearing. It remains to be seen where it will end up, and it certainly doesn't fall under your auspices.

I appreciate the fact that promotion is a huge part of any large games, Olympics or you name it. You guys play a critical role in the establishment of return dollars to our province. I really know that plays an integral part of the entire games, and I'm very happy that you take an active role.

I know Toronto is doing quite well. Do you ever deal with the economic development from Hamilton or do you deal with any of the other ones? Do you sit down and talk to them? Because we have hotels in Hamilton, too, whether you believe it or not.

Mr. David Whitaker: Mr. Miller, again, just because of the geographic boundaries that we're ascribed to, our representation is the city of Toronto, the city of Brampton and the city of Mississauga. That's our region.

Mr. Paul Miller: That would be a no.

Mr. David Whitaker: Yes, sir. Now—

Mr. Paul Miller: How do you coordinate? I'm just curious. I understand your geographic area, but how do you coordinate something of this size without contacting other cities that are going to play a critical role in this? And how do you coordinate—do you know what I'm saying?—transportation from your hotels to Hamilton? And obviously we have a challenge there with the QEW. They were talking about closing a lane or whatever they were doing. This could create some problems. You don't have any discussions with them on how to get the people who are staying in your hotels to Hamilton because soccer is going to be a major event, and I'm sure there will be a lot of people that stay here who are going to go there. Have you talked about how you're going to transport them to Hamilton?

Mr. David Whitaker: Well, to my knowledge there is a transportation program. Again, I'll—

Mr. Paul Miller: Sort of.

Mr. David Whitaker: Again, I apologize. You can appreciate—

Mr. Paul Miller: Well, I'll talk to the next gentlemen about that.

Mr. Andrew Weir: You're asking about two things; one is the transportation infrastructure. As you can appreciate, TO2015 has a team. They're working on that. Where we are collaborating very closely with our partners in Hamilton and Niagara and the Durham region and elsewhere, anywhere that's hosting the games, is on marketing the broader destination and how we make sure that visitors that come to Toronto don't just stay in Toronto. Even we have an interest in making sure that the visitors, especially the ones from further afield, are getting around and experiencing the destination.

Many of the visitors that we will receive during the games, in fact, may come from other parts of Ontario. Many of Hamilton's visitors will no doubt come from Durham and Ottawa and Windsor and elsewhere. So we're working very closely, through Ontario Tourism marketing partnerships and with the other tourism organizations like ourselves that have an interest in the games. So there's a lot of collaboration at that level. I think you're—

Mr. Paul Miller: So you are, actually. You said you weren't but you are.

Mr. Andrew Weir: On the marketing side—

Mr. David Whitaker: No, Mr. Miller, you said I wasn't; I didn't get to answer the question before you said I wasn't.

Mr. Paul Miller: Go ahead; feel free.

Mr. David Whitaker: I talk about this RTO unit, the regional tourism organizations—there are 10, basically, and three in the north territory. We, in fact, had a meeting last week. The Ministry of Tourism routinely brings the RTOs together. We have a monthly conference call, and we just had a quarterly face-to-face.

Mr. Paul Miller: So if I had said RTOs, I would've been safer then, right? You're tricking me.

Mr. David Whitaker: No, I'm not tricking. We work very closely. We coordinate, and we talk about way-finding; we talk about big events.

What I'm kind of excited about—and Mr. Miller, again, I think this may not get to your question, but I want to get it out there—it's not just going to be the Pan Am Games. There are conversations about food festivals and art events and some of the programming that can be done in other provincial assets.

I met with David Ames from—

Mr. Paul Miller: David is from Hamilton.

Mr. David Whitaker: —and we just met to talk about some of the programming that they're going to do at the parks.

Trust me, the tourism industry wants to take full advantage of having the games here and to make sure that it's more than just athletic events; that it's a celebration.

Mr. Paul Miller: Okay. Look, any event of this size is going to have its problems. Has Tourism Toronto

assessed any possible difficulties that may arise for your members during the games—and how have you been able to work on these issues and straighten them out before 2015? I know you meet regionally on a regular basis, but there must be issues that are stifling you a little bit. I'm not hearing anything from your organization about problems.

Mr. David Whitaker: Well, I'm assuming that this won't be the last time we have this conversation. It's a long time before the games. Some of the, perhaps, more major issues like being on time—

Mr. Paul Miller: Transportation.

Mr. David Whitaker: —and transportation. Those are yet to be hashed out. I know they're working on them, and you need to get a higher comfort level that they're being worked on. I trust you to do that.

Clearly, the fact that many people who will be coming here won't be speaking English or French as their native language—that's an issue that I know I'm promoting a lot. Making sure people can find their way around—and one of your colleagues, earlier, asked a question about signage. We need to make sure that people who speak Spanish, people who speak Portuguese—some of our colleagues from the Caribbean—have the ability to find their way around. Way-finding is so important, and you have my commitment that we're going to make sure we work on that.

At some point, security will be a big discussion. I'm sure some of those conversations are already taking place, and you might want to talk to the 2015 committee about their security plans.

Mr. Paul Miller: Speaking from a humble position, are your organizations—your hotels and your hosts—making it fiscally responsible for people who might be financially challenged, who are coming from other countries? Have any of your hotels made any kind of special arrangement for groups that may be—I'm sure in some of these countries, they're financially burdened and struggling. You're not going to get some of them staying in the suite; you're going to have them want a single room. Have you made room for these people? Or are all your hotels and all your facilities going to be just top buck and for the people who have the money?

Mr. David Whitaker: Mr. Miller, I almost never say the word “all,” as you can appreciate. In fact, that's one of the discussions we're having with our hotel community. Our individual hotels are contracting directly with teams, with countries, with organizations, so supply and demand often takes care of that.

The benefit of the greater Toronto area is that we don't just have Shangri-Las and Ritz-Carltons and Four Seasons. We also have Holiday Inns—and I'm not insulting the Holiday Inn by calling it a budget property—Comfort Inns and Days Inns etc. We have dormitories; oftentimes our universities work with us on some of the housing.

Mr. Paul Miller: This is a question I always ask when I travel: Do you feel that your rates for the groups that you mentioned will be unreasonably raised during the

Pan/Parapan Am Games? In other words, in that two-week period, are we going to go up 30% for a room, 25%? Or would the great group rates remain the norm?

Mr. David Whitaker: I'm very confident that we have a system in place that avoids gouging—

Mr. Paul Miller: That's a good word. I didn't want to use it, but go ahead.

Mr. David Whitaker: That's why those contracts are being negotiated now, because you do work in the environment of supply and demand and competition. I'd like to say that we can control everything, but we work very hard to make sure that gouging—and to my knowledge, even with the Toronto International Film Festival, which is one of the most highly sought rooms in town, we have a great reputation of making sure, because gouging doesn't help anyone. It doesn't help the destination's reputation.

1600

Mr. Paul Miller: Well, that's good to hear, because, certainly, I guess groups will be monitoring that to see—

Mr. David Whitaker: And we'll monitor that, of course.

Mr. Paul Miller: Oh, I hope you do, as an organization, because we certainly want to make everyone have the ability to be accessible to the games, no matter what their income is.

Mr. David Whitaker: And we'll commit to you that we're going to do everything in our power, and we'll keep an ear open, if we can be of any assistance.

Mr. Paul Miller: I appreciate that. I'm thrilled that you're taking an active role and that you're working with the other economic development committees throughout Ontario to make this a successful games.

I certainly will be watching, because I've seen some horror stories before of the final result of the costs and the legacies that are left. According to the government, everything's hunky-dory. Well, I'll be watching, and I hope we do come under budget and the facilities are used after. I believe the term “white elephant” was used.

I have seen that happen in Montreal around the Olympic stadium, in which the roof fell in, as you know. There were all kinds of things that went wrong there. All the venues around the Olympic stadium are not in use, and that was a huge cost to the Canadian taxpayers and Quebec. So I'm hoping that they will be utilized to the fullest. And I hope that you would, after the two-week period—naturally, you are in business and promotion—encourage continued regional tournaments and continue to bring people back to the facilities that the taxpayers of Ontario built so that we can certainly justify their use afterwards and continue to support tourism in Toronto and all across our province, because you can spend a heck of a lot of taxpayers' money, if they sit there not in use. It's a pretty scary thing, and it becomes an albatross.

I'm very happy that you're working hand in hand. All I can say at this point is I hear nothing but good things from the government, and I don't want to cast a shadow over their—actually, you should hire the parliamentary assistant as one of your promoters. She's quite good at

that. I hope it comes true, what she's saying, because she seems to have agreed with everything that's gone on so far and thinks everything's hunky-dory. Well, I'll see you next year, and we'll see where we stand.

But thank you, gentlemen. I appreciate your efforts. We will certainly be watching.

Mr. David Whitaker: If I may, and through the Chair, I would just commend all of you, because I'm not necessarily counting colours. We all have a tremendous opportunity. You all are, obviously—based on your questions, your goal is our goal of having the most impactful, most successful games we can. I appreciate the rigour. I admire the role that you're playing on both sides in this discussion, if you will. It will assure us that we come together and have one of the most outstanding events that this whole province can be quite proud of, and I look forward to sharing in that success with all of you.

The Chair (Mr. Grant Crack): Thank you. That takes us to our next round of questioning, which is up to 10 minutes, depending on what's being said.

Mr. David Whitaker: I should have saved that for the end. I thought I was done.

Interjections.

The Chair (Mr. Grant Crack): Ms. Damerla. Oh, sorry; Ms. Hunter.

Ms. Mitzie Hunter: Thank you very much, Mr. Chair. I'd like you to comment on the impact of big events on big cities. I believe earlier your example was on New York hosting the Super Bowl, and specifically around preparation and logistics management and how that helps host communities manage games of this size and scale.

Mr. David Whitaker: Like I said, we often refer back to when we hosted the FIFA under-18 World Cup. That was a great example of hundreds, if not hundreds upon hundreds, of volunteers, the city of Toronto coming together with provincial staff, with other municipal governments etc.—everyone collaborating on a unified goal.

Big events bring organizing committees and organizing groups together. Everybody gets under kind of the same tent, if you will. The by-product of just collaboration, you can't put a price tag on. Sometimes, these are the times where we can take our badges off of what company or association or municipality or government we work for, and all collaborate. So just organizing—the capacity to organize—is really critical.

Earlier questions about our examples of where a community or a destination have failed—you don't want that, because if you get that kind of reputation, it spreads. Everyone will be talking about us if we don't pull these games off, quite frankly. What a daunting challenge, but what a wonderful challenge. Because when we pull it off—and, quite frankly, we've had a great track record, not Tourism Toronto per se, but this community. Most folks will tell you that the last Grey Cup was one of the best Grey Cups ever—not the game itself, even though Toronto won that game; it was the festival, it was the week-long celebration etc.

When we host, effortlessly, big conventions, like Microsoft or like a major medical meeting or any of the

dozens and dozens of big conventions we host, that matters to people, because it shows our capacity—and there are a lot of unsung heroes: city staff, provincial staff who are working on all the logistics. Logistics is just like ballet, symphony, piano: You have to practise to get really good. The more we have the ability to host and organize big events, the better we get at it, everything from the policing of them to the way-finding to the volunteer recruitment to the awareness.

It's also a great by-product that people become aware of what the economic impact of hosting a big, big event can be, because, of course, it takes major commitments to bring these—and then sponsors get excited, right? Some of the great sponsors that Toronto 2015 has already announced or who they're soliciting, those corporations want to be affiliated with a successful event. Scotiabank doesn't get involved with all the things they get involved with—the marathons, the carnival, Nuit Blanche—for that event to be a disaster. When that event goes off well, it makes Scotiabank look good as well, using that as an example.

The ability to organize, the capacity to host big events often distinguishes a big city from a smaller city that might covet that event, but just does not have the administrative or organizational capacity to pull that event off. It gives you a reputation. It gives you a standard of excellence that we all want to strive for.

Ms. Mitzie Hunter: Thank you very much. Talk a little bit about the capacity that is required to coordinate some of the logistics as they relate to easing congestion and, perhaps, even communicating with the people who live here in terms of what they can expect during the games. What's your thinking as we prepare around those lines?

Mr. David Whitaker: I would take a moment and put up my own personal experiences, or yours perhaps, and that is when you get up on that Saturday to go to the store and the street is closed, and you had no idea that that walkathon, that marathon was happening, and you're frustrated; we're all frustrated. So it's about education, right? It's about, "Oh, I know the Gardiner is going to be closed next Saturday" or "I know the subway"—I take the subway every day, and the TTC does a pretty good job now of announcing that this weekend, it's going to be closed for some of the repairs etc. Education, community awareness is critical.

We play a big part in getting the word out, if you will, and so does the city. The city of Toronto, I have to tell you, has an outstanding special events staff. Harold Mah, he's one of the best in the business. I do want to acknowledge him and the work that they do. They've had a lot of experience, whether it's TIFF, the carnival, Nuit Blanche etc. etc. etc. They're sometimes our greatest salespeople, because planners are just like anyone else: They want to know, do you have the capacity?

I remember when David Peterson was leading our effort to bid on this, we cited some of the other success we had, like the FIFA under-18, because the event planners themselves want to know they're coming to a

community that—there has been a lot of discussion in Russia about the winter, and again, that's just typical. Something tells me the Russian government will get its act together in the end, but that's great anxiety: Is this community going to be able to pull this off? It's an appropriate question, and we can't ask that question of ourselves enough—and we just continue to challenge ourselves to make sure that we're prepared for that and think of every possible scenario and every possible challenge.

Clearly, increasingly, transportation, traffic and congestion are becoming a bigger part of our vernacular here in the GTA. It affects us as individuals. It affects us as government. It affects us as a host destination. I'm encouraged by the train link from Pearson to Union Station. I'm encouraged by the massive improvements of Union Station. Although one could argue whether that has anything to do with the Pan Am Games, clearly, that deadline is being used as a stimulus for infused enthusiasm, if you will.

We've still got a long way to go. We'll bring 10 million people to this community. I wish we brought 12 million people to this community, and that's one of our goals long-term: Are we going to be able to host another million people and make sure that our restaurant capacity and our venue capacity—it's a good-news, bad-news scenario. But if you're not in this game of big events and big promotions, then you're just another destination—which is great, but my job is to make sure that the greater Toronto area and, quite frankly, all of us in southern Ontario and in Ontario in general, is one of the best-organized, because a great place to visit is a great place to live and work and play. The more we can improve our capacity to be hospitable and organized—it has corollary benefits to all of us, in terms of transportation and coordination etc. Like I said, symphony, ballet, piano lessons—the more we practise the better we get, and the better we are in the future.

1610

Ms. Mitzie Hunter: Okay. I just have one question, and then I'll turn it over to my colleague. The Pan/Parapan Am Games are the second-largest event of its type in the world, and my understanding is that 300 million viewers will tune in and will be spotlighted and focused on the greater Toronto and Hamilton area during the course of these games, which is a tremendous opportunity to showcase the brand of Toronto and how very special this region is.

What are some of the international opportunities, partnerships, that you foresee could be developed as a result of hosting these games?

Mr. David Whitaker: Well, as I had earlier commented, we're already engaging with media and journalists—lifestyle journalists, tour and travel journalists and promotions—about why we're so excited about hosting the games: the fact that we have this diversity that we enjoy in the different neighbourhoods, in the different communities. Whether it's Salsa on St. Clair or—for every demographic, it seems like we've got a festival,

and our ability to distinguish ourselves and bring attention to that is a key opportunity.

But it goes well beyond just hosting this event. It's tying it to the uniqueness of our destination, whether it's the cuisine, whether it's art and culture. Like I said, Mr. Harlow talks about some of the vision they have for making sure that all of our partners get excited about exhibits, about events and about programming. It becomes a festival of itself, a Toronto festival, if you will, or an Ontario festival. I wear the Toronto hat mostly, so I apologize.

You know, it's a celebration of ourselves, and that's when events really hit the sweet spot. It's not just a great event for the visitor—but, you know, we're all visitors. When we go to New York, we all want to do what the locals do. When we go to South Beach—well, not all of us—we want to do what many of the folks in South Beach do.

Tourists and visitors want to come and experience a real destination. They don't want to experience a manufactured or artificial destination. Our ability to showcase what makes us so unique and makes us so real, using this event as the hook, has a residual effect well beyond and well in advance of the games, if we do our jobs right.

The Chair (Mr. Grant Crack): Thank you very much. We'll move over to Mr. Jackson: 10 minutes maximum.

Mr. Rod Jackson: I'm going to hit the rewind button just a little bit, because I thought of a couple other questions based on our conversation before. Can you tell me what the number is that you receive from the ministry in that contract that you have?

Mr. David Whitaker: If you don't hold me to the dollar amount.

Mr. Rod Jackson: I won't; I promise I won't.

Mr. David Whitaker: It's roughly \$9.9 million annually.

Mr. Rod Jackson: And that's part of your contract that you have—

Mr. David Whitaker: Currently.

Mr. Rod Jackson: —whether or not the Pan Am Games are—

Mr. David Whitaker: Correct, correct.

Mr. Rod Jackson: So outside of that.

Mr. David Whitaker: Just in context here, that's out of a total budget of about \$26 million.

Mr. Rod Jackson: Okay. So your total budget is \$26 million.

Can you explain to me what kind of relationship you have with the organizing committee and/or the secretariat? Explain to me your relationship, if any, with them.

Mr. David Whitaker: I'll start with what it isn't. We don't have a seat per se on the board or anything like that. Andrew—again, I'll have him add some additional comments—is our assigned staff person, if you will, to work in co-operation with the staff from TO2015. I've challenged him with everything from making sure that we're good listeners, “How can we help?”—as well as being a resource.

That said, we're not taking the lead per se from TO2015. We're doing what you would expect us to do as a destination marketing organization: We're targeting to get that buzz, that story, that excitement about everything I've been talking about, the diversity of the destination, the potential we have, and using this as a real hook to sell and feature and distinguish southern Ontario and, in general, RTO 5, in our role.

Mr. Rod Jackson: Again, I don't expect you to have an exact number on this, but what would your estimate be—what percentage of that \$9.9 million would you be using to help market the Pan Am Games through this—

Mr. David Whitaker: I think it's going to vary from—again, two years in advance of the games is probably not as much as it's going to be in the year of the games.

Mr. Rod Jackson: Understood.

Mr. David Whitaker: In fact, we haven't even put our 2015—we just finished putting our 2014 budget together for next year.

Mr. Rod Jackson: Right.

Mr. David Whitaker: We operate on a calendar budget. Invariably, we've assigned so that our PR—we have in-market representation in South America, and we're constantly pitching journalists. Our goal is to have 650 journalists come and cover the city. That's a performance goal we have.

Sometimes we're pitching them on the WorldPride event next summer, and sometimes we're pitching them on the new hotel, the new luxury hotel. Sometimes we're pitching them on the hot new chef or the cool new event. We often now are using the Pan Am Games as “Oh, wow, yes”—you're hosting an event that is so targeted to Central and South America. We're using that as a hook to have another discussion with people about why we're so excited about hosting these games.

I can't necessarily give a dollar amount. We have the contracts; we have the people. It's the story that we're using to tell a different story than we told—you know, next summer it's all about the WorldPride event that we're involved in and hosting. I'm trying to think of some other major marquee events over the years. Whatever it takes to get someone's attention to talk about Toronto, we often use that as a hook. It's not that we are hiring dedicated staff or spending specific contractual dollars to talk about it. It's a conversation with journalists, with meeting planners, with tour operators, with consumers through social media, getting buzz about the destination. It's hard to put a dollar amount on how much I spend on getting people to talk about our great restaurant scene, and how much we spend on getting people to talk about our great arts and culture scene.

We have the tools in place. It's just the variety of stories that we're trying to use to cut through the clutter, to get people's attention on the GTA.

I'm not sure I'm answering your question. I apologize.

Mr. Rod Jackson: I didn't expect you, to be honest, to have an exact percentage. I thought that on the off chance you might, I might be able to get that out of you.

I agree with you: I think you're doing a good job at promoting the city and promoting the games. It's something that should be positive not just for Toronto but certainly for Ontario, and Canada, frankly, and that's what everyone wants it to be.

However, as my colleague from the NDP alluded to, there are problems that come up inevitably. One of the things we suspect, from past experiences with other games, is that there are transportation issues. We know that Toronto, without the Pan Am Games, has some transportation issues. What do you perceive as being the transportation issue during that time? That has to be a big piece of tourism. That's something people are concerned about. I am, whenever I travel. One of the first things I look at is how I'm going to get there, and how I'm going to get around once I'm there.

Mr. David Whitaker: Two things, and one thing is I totally agree: It has got to be a number one priority, a top priority. I apologize. In not getting a lot of time to prepare for this—I was invited on Friday—or not knowing the questions, I haven't spent a lot of time on that specific issue. I'd be more than happy—I don't know how the process works, but I'm sure you're going to ask that question of a lot of people.

Mr. Rod Jackson: Hopefully.

Mr. David Whitaker: We're not in charge of transportation, but we don't want it to fail.

Mr. Rod Jackson: Do you have regular contact with the Ministry of Transportation, or any of the people from the organization, about transportation?

Mr. David Whitaker: I'm not sure that that's our role. I know that when we bring big events to the city, like Microsoft with 17,000 people—I keep using that because it just recently happened, last summer. We work in that primary context with the city of Toronto special events department, with this colleague Harold Mah that I refer to. He then disseminates that information to his intergovernmental relationships. But that's just not in my bailiwick of coordination, if you will, in terms of the administrative control over transportation.

The key to any transportation challenge is awareness of events, like I said, whether it's a street closing for a party or a marathon or a walk. We often have corporations that will close Bremner and use the Roundhouse or have an event that causes people to congregate. Again, there is permitting that has to take place and there's coordination.

I think our law enforcement, including the province, are some of the best at what they do. We're constantly hosting these types of festivals and events, whether it's closing the Danforth or—you know, the different street festivals and events. We do really, really well at that. I'm not aware of failure in that area.

But I totally agree with you and applaud you. This has to be a number-one concern, and I don't think anyone in this room would disagree with you—the logistic coordination of transportation. We can't have athletes missing their start times, of course, we can't have fans missing the events that they're passionate about, and we can't

have sponsors feeling that we're running a discombobulated, uncoordinated event. It won't help us in our future reputation.

1620

Mr. Rod Jackson: Are you in a position to field complaints from tourists from time to time?

Mr. David Whitaker: Yes, occasionally. Most tourists don't know what the Toronto Convention and Visitors Association is. What we more routinely get is that a tourist would write a very unhappy letter to a hotelier. To the credit of those hoteliers, they often send us the letter, because they know that if they don't respond, they're probably going to keep going up the ladder, if you will. We've got a great relationship with the Greater Toronto Hotel Association because we want to have a reputation of being sensitive and responsive.

I would be honest with you: We don't get flooded with criticisms. We get the occasional letter here and there.

Mr. Rod Jackson: Okay. I can understand that.

Mr. David Whitaker: TripAdvisor, by the way—

Mr. Rod Jackson: Pardon me?

Mr. David Whitaker: TripAdvisor is the greatest. In fact, I have a dedicated staff person. Among the many things they do is constantly monitor TripAdvisor, because that's where people are telling their complaints and telling their stories.

Mr. Rod Jackson: Are you involved at all in measuring what sorts of jobs events like this might create for Toronto? It's in the context of all the different special events that happen.

Mr. David Whitaker: Well, first and foremost, we want to keep the current 230-something thousand—I don't know the number—

Mr. Andrew Weir: About 315,000.

Mr. David Whitaker: —about 315,000 men and women who are currently working busy. Hotels empty out every night and every week, and you have to just keep replacing that. Like I said earlier, if it weren't the Pan Am Games, we'd be bidding on another major meeting for that time frame.

A thriving, growing hospitality industry keeps close to 300,000 people gainfully employed on a daily basis, and you have to keep refilling the hotels. It's not just one event. It's not just the Pan/Parapan Am Games. It'll be the whole year's worth of events and the whole decade's worth of events. It never stops. At these hotels, people check out. We've just got to keep replacing them.

Success breeds success. Our ability to fill the city with events, programming and visitors—you've seen, for example, the amazing construction boom in the last four or five years. We led North America in growth in hotel inventory in three of the last four years. That speaks volumes of this great province. Hoteliers, big companies around North America, are investing. The Four Seasons, Shangri-La, Ritz-Carlton, Thompson, Trump, Le Germain and on and on: They're investing in our province because they see the success we're having. A new hotel opening means more jobs for staff, bellmen, staff in the restaurant, administrative staff etc.

If you look at the fact that we led North America in growth in hotel inventory because of new investments—I mean, you've got to appreciate it; look at all the construction that's going on in our community, including hospitality. That's going to add jobs, add vitality, add buzz, add brand reputation. It's a thriving industry that builds on itself.

The Chair (Mr. Grant Crack): Okay. Thank you very much. We'll move on to the third party with Mr. Miller.

Mr. Paul Miller: Thank you, Mr. Whitaker. I'm thrilled with your promotion of Toronto.

The parliamentary assistant and the members, I've got to remind you: There's more than just Toronto here. I've been hearing all about Toronto. Let's not forget Durham, York, Peel, Halton, Hamilton and Niagara. Those are very important parts of the province as well. Ontario doesn't end in Burlington.

I must say I'm a little disappointed that I haven't heard anything going to southwestern Ontario. That would have been good, too. You're doing a great job with Toronto, but we certainly want to promote the other venues, because one of the major venues is the Hamilton stadium, where the soccer—which is one of the main events—is going to take place. I'm hoping you'll work hand in hand with the other—what did you call them? What are they called, regions?

Mr. David Whitaker: RTOs.

Mr. Paul Miller: RTOs or RTs. If you can work with them and promote all the venues from all the areas, not just Toronto—

Mr. David Whitaker: I respect your comment, sir.

Mr. Paul Miller: —because believe me, there are a lot of people out there who want to feel part of the Pan/Parapan Am Games, and they don't want it to be centralized strictly for Toronto. We'd like it to be felt that we're part of the show, too—just a little point to get in.

In reference to your comments about the 60/40 split, you said it was \$9 million or something that you got from the ministry to promote?

Mr. David Whitaker: Yes, \$9.9 million.

Mr. Paul Miller: Okay. Whatever. Close enough, \$9 million to promote. Do you give breakdowns on how that's spent, whether it's billboards, TV commercials in other countries, advertising? What do you use that \$9 million for?

Mr. David Whitaker: It's public information. There's very thorough reporting. In fact, it's tonnes of paper work—appropriately so, I guess—about our programming, our metrics. We have performance metrics. We have our own goals as a non-profit.

Again, my bosses are 21 men and women who are my board of directors, and they hold us to the same high standard as you would expect. I hope you can appreciate that. They're industry leaders. If you look at our website, we've got one of the most talented boards I've ever had the privilege of serving for.

We have performance metrics as an organization. We have the same performance metrics that we report. In

fact, we're working with the Ministry of Tourism, Culture and Sport on a whole new series of benchmarking performances that go well beyond just hotel rooms and traditional marketing programs. They're talking about economic development—

Mr. Paul Miller: My question was: I would have access, as a citizen, to the breakdown of the \$9-point-whatever million—

Mr. David Whitaker: That's correct.

Mr. Paul Miller: —and where it's going, who's spending it and what it's for? Because we did have a bit of a nightmare with the lattes, the parking tickets and the things that happened in another part of the Pan Am process. We certainly don't want that to happen with the \$9-something million.

Mr. David Whitaker: I respect that.

Mr. Paul Miller: You guys are really promoting Toronto, so we want a nice, clean slate there. Do you think there would be any problem in that area? Every dollar will be accounted for?

Mr. David Whitaker: We have a very thorough, rigorous set of policies and procedures—

Mr. Paul Miller: So that would be a yes?

Mr. David Whitaker: I'm very confident in our oversight. I'm very confident in our ability to conduct ourselves.

Mr. Paul Miller: That's good. As you're working with all chains, all motels and hotels, all people who are in the hospitality industry in the city, would that include restaurants? Have you got members who are restaurants? Do you have a membership that everyone pays into yearly to be a part of your marketing group?

Mr. David Whitaker: Two primary categories: The hotel relationship is a direct contractual relationship with the Greater Toronto Hotel Association—

Mr. Paul Miller: And they all pay for that?

Mr. David Whitaker: I mentioned that 70ish number.

Mr. Paul Miller: Okay.

Mr. David Whitaker: We have about another thousand—and very much like a board of trade, we have a membership category. It's dominated by tourism interests, so an attraction—of course, all the major attractions, I'm confident to say—

Mr. Paul Miller: Would that include the big players, like Wonderland and all that? Would that include them?

Mr. David Whitaker: Canada's Wonderland is a member of Tourism Toronto, yes.

Mr. Paul Miller: Okay.

Mr. David Whitaker: Now, Niagara Falls would not be, because—again, not to challenge you, but that's a different region, so—

Mr. Paul Miller: They have their own region, yes. That's fair.

Mr. David Whitaker: Okay. I just wanted to make sure you're comfortable with that.

Not every restaurant would be a member of Tourism Toronto. It would be a restaurant that's in the—

Mr. Paul Miller: A chain, maybe?

Mr. David Whitaker: Well, it would be in the heart of it all, right? They see their own visitor activity. Oftentimes they'll call us, saying, "Hey, we see all these visitors. How can we get more?"

Mr. Paul Miller: If you have visitors to the city and you have a problem somewhere with one of your hotels or a restaurant or something, what kind of complaint mechanism, other than your website—do you have someone who deals directly with complaints? What mechanism do you use to satisfy the person who's complaining, as well as maybe defend the member who may have been taken down the wrong road unnecessarily?

Mr. David Whitaker: Two things. I want to make sure I'm thorough with your question. I will tell you, I'm very encouraged that in a given year—and I've been at the helm for six years—we're talking a handful of letters each year that I receive, or that have come my way. I'm encouraged that it's not an endemic problem.

I want to share with you that I have a practice and a requirement that any complaint by a visitor who has written to Tourism Toronto comes to my desk. Now, what we do, of course, depends on the story and what has happened. We inform the member and we ask the member what they've done about it.

If it's with the hotel community, the hotel association is a big partner in that, because no hotelier wants to have complaints go on—

Mr. Paul Miller: So you have ways and means to make it up to the visitor if you felt they've been wronged.

Do you take any of your members to task for—maybe they did wrong the individual who's staying in Toronto. Have you ever had to expel anyone from your organization?

Mr. David Whitaker: The good news is, to my knowledge—and I'm pretty confident—in my time, we have not expelled anyone. I'm not aware of any atrocious lack of service. We do intercept surveys, working with Pearson, some of the rest stops and with OTMPC, and our customer service ranking is quite high. I'm really quite proud of that.

To your point, it doesn't mean that there isn't the invariable visitor who has a less-than-expected experience.

1630

Mr. Paul Miller: Sure.

Mr. David Whitaker: You know, the world is changing now.

May I call you Paul?

Mr. Paul Miller: You may.

Mr. David Whitaker: Paul, the world is changing. Where, in the old days, you and I would write to the GM, and maybe he'd write us back—probably not—now you go online and you tell your thousand friends, "What a horrible experience"—

Mr. Paul Miller: Word of mouth can kill you.

Mr. David Whitaker: —and those thousand friends tell their thousand friends.

Mr. Paul Miller: The social media can hurt.

Mr. David Whitaker: Social media is the greatest watchdog for customer service that I've ever—and it's great.

Mr. Paul Miller: And a few cameras, placed strategically, help.

Mr. David Whitaker: But it really has changed the dynamic of responding to and being aware of, in any institution: a restaurant, a theatre—any institution.

Mr. Paul Miller: I like your presentation. It has been very good. For a person who didn't get the questions, you've done very well—and, of course, your able-bodied backup man there.

Mr. David Whitaker: He answers all the hard questions.

Mr. Paul Miller: And he answers the tough ones. But I'm hoping, as you progress towards 2015, that your organization will certainly—how would I put it?—in your media frenzy, you can certainly happily expose some of these other areas, because we're very proud, in Hamilton, of what we've been able to accomplish. It is the city of waterfalls, and we're hoping that you will include that to entertain your guests in Toronto, to show them some of the other parts of Ontario that are showpieces as well.

Mr. David Whitaker: I encourage you to look at the RTO, the organization that has been created.

Mr. Paul Miller: I got it, yes.

Mr. David Whitaker: I will tell you that our peer group of those 13 men and women, who are my peers, we meet—we have a monthly conference call. We meet every—

Mr. Paul Miller: Is Adams the—

Mr. David Whitaker: He used to be. Now he's at parks.

Mr. Paul Miller: Who have we got now in your RTO from that area?

Mr. David Whitaker: At the moment—I'm going to have to go back and look.

Mr. Paul Miller: Okay. We want that guy to play a more important role, so you remember his name.

Mr. David Whitaker: I actually think it's a woman, by the way.

Mr. Paul Miller: Or a woman, yes. Sorry. Okay. Thank you.

The Chair (Mr. Grant Crack): Well, thank you very much, Mr. Miller. I guess that concludes it.

Mr. Whitaker and Mr. Weir, we thank you very much for your presentation and for being here and answering some very detailed questions. You did a wonderful job. Thank you very much.

Mr. David Whitaker: We want to be a resource for all of government in the future, moving forward, in anything we can do where we think we can lean in and assist. We want this to be something that, at the end of the day, we're all very, very proud of.

The Chair (Mr. Grant Crack): Thank you very much for the offer. Thank you very much.

PAN/PARAPAN AMERICAN GAMES SECRETARIAT

The Chair (Mr. Grant Crack): It now gives me great pleasure to welcome Steve Harlow, assistant deputy minister of partner engagement and of the legacy division. Mr. Harlow, you will have five minutes, followed by 20 minutes of questioning from each party, and then we'll see how much time is left. It could be up to 10 minutes, but it's probably going to be a little bit less.

Again, it's my pleasure to welcome you, and the floor is yours, sir.

Mr. Steve Harlow: I won't be as good a salesman as my colleague Mr. Whitaker, who's in this for a business. I've worked with him a lot over the past five years, and he really does a wonderful job.

I will provide some opening remarks. I have provided a copy of my remarks for the committee, so if you'll allow me, I'll read through the remarks and then turn it over to the committee.

My name is Steve Harlow. I have a dual role within the public service. I am the assistant deputy minister of the sport, recreation and community programs division of the Ministry of Tourism, Culture and Sport. I am also the assistant deputy minister of the partner engagement and legacy division of Ontario's Pan/Parapan American Games Secretariat. This is one of three divisions in the secretariat. I've held this role since February 2012.

My division at the secretariat is focused on maximizing the impact of the province's investment on the games. One of my responsibilities in this role is to plan, design and coordinate the delivery of Ontario's promotion, celebration and legacy strategy. This strategy was launched by the province in August 2013, with the government allocating \$42 million over the next three years.

The strategy is designed to celebrate and showcase Ontario talent and to create a legacy across the province that extends beyond the games' time. It aims to expand the impact, and opportunities for participation in the games, beyond athletes and spectators, for Ontarians and visitors alike.

The strategy includes plans to enhance support for live music, celebrations and festivals. As well, plans are intended to help keep kids active and healthy, encourage people to use Ontario trails, promote volunteerism during the games, support athlete and sport development from community/recreational to high-performance levels, promote business development opportunities in the Pan-Americas for Ontario companies and showcase Ontario to the world.

As part of our work, we are building our para-sport expertise and capacity to ensure legacy in this area. For both the Pan Am and Parapan Am Games, a variety of initiatives are planned to recognize accessibility and support para-athletes and people with disabilities before, during and after the games. One such initiative is the completion of 250 kilometres of gaps in Ontario's Trans Canada Trail. All trail development consultations will

address accessibility requirements under the Accessibility for Ontarians with Disabilities Act.

I mentioned that my responsibility also includes coordinating delivery of the strategy. With this, it means that the secretariat works across Ontario government ministries to develop programs that can build from the 2015 games. Programs that have been enacted since August include the Ministry of Tourism, Culture and Sport's Pan/Parapan Am trails initiative; the Ministry of Economic Development, Trade and Employment has announced plans for a Pan Am business forum, in partnership with the city of Toronto; just last week, the Ministries of Education and of Tourism, Culture and Sport, in partnership with Toronto 2015, introduced Pan Am/Parapan Am Kids for the province's schools, camps and after-school programs. Some of you may have seen that featured in the Toronto Star today. In the new year and leading up to the games, programs will continue to be announced across various ministries and partnerships that support the strategy.

Another facet of my responsibilities includes working in partnership with the federal government and other partners to the games' multi-partner agreement to design and operate the games' \$70-million sport legacy fund, which was announced on November 12. The fund is meant to ensure years of support for three new games' venues, specifically: the aquatics centre, the velodrome and the athletics stadium, and is included in Toronto 2015's operating budget.

Another of my responsibilities is to advise and consult with Toronto 2015 on its activities related to community engagement, festivals, ceremonies, volunteers and events to ensure programs reflect Ontario's vision and expectations.

My division also is responsible for ensuring Ontario commitments and obligations pertaining to international protocol with the Pan American Sports Organization are met. Of note, this included the recent Pan American Sports Organization annual general meeting, which was held in October and which hosted 350 delegates, international media and the groups bidding for the 2019 games.

It also falls within my area of responsibility to ensure the province is recognized appropriately and consistently by Toronto 2015 as a games funding partner. As well, I am responsible for working with the organizing committee to increase general awareness, understanding of the games and the impact of the event.

With this I've offered a snapshot as to my accountabilities and responsibilities; I'm happy to elaborate. Thank you kindly for your attention.

The Chair (Mr. Grant Crack): Thank you very much. You went two seconds over. Wonderful job.

It's my pleasure to pass it over to Mr. Jackson from the opposition to begin questioning. Mr. Jackson?

Mr. Rod Jackson: Thank you. Thank you very much, Mr. Harlow, for agreeing to come in and speak with us today. I do have some questions for you regarding some of the legacy projects. I think I have my head wrapped

around it, but there is certainly some confusion about the different legacy projects that are out there. It seems to be that they come in a couple of different flavours.

For simplicity's sake, I'm going to refer to your notes. We have the fund that's meant to ensure the support of three new games' venues—the aquatics centre, the velodrome and the athletics centre. What is the total of that fund, again—\$70 million?

Mr. Steve Harlow: That fund is \$70 million. It was originally set out in the multi-party agreement. The fund includes \$65 million provided by the federal government as part of their \$500-million contribution to the organizing committee for the games, and it includes \$5 million as part of Ontario's \$500-million contribution to the games.

It's the responsibility of the organizing committee to work with the partners to develop the terms, the conditions and the flow of funds that will be provided from that fund, one of which would go to the athletic stadium, one of which is the aquatics centre and one of which is the velodrome. Those were the three that were identified and agreed upon by all partners to the multi-party agreement in the original multi-party agreement, and it's to maintain the operations and use of the facilities over time, for use by high-performance athletes. That's the intention and the objects of the legacy fund.

1640

Mr. Rod Jackson: Can you explain why other venues were not chosen? In other words, what was the selection process? For example, maybe the Flatwater venues in Welland and in St. Catharines for rowing, why weren't they included? I guess what I'm getting at is that there are other legacy projects. Those other projects that are attached to the Pan Am Games, they're going to have a life afterwards for those communities, some of them at huge cost.

The athletes' village is one big one that is going to have a big life and a big raison d'être after the games at a huge cost—\$709 million. I don't think anyone is saying we're not getting the value from it, but I think we want to really understand what the connection is there. But also the Hamilton stadium that is under construction, the Goldring Centre for High Performance wasn't included. How did you end up with the winners and the losers in that legacy project?

Mr. Steve Harlow: I would refer back to the original multi-party agreement where the Canadian Olympic Committee, the Canadian Paralympic Committee, the city of Toronto, Ontario and Sport Canada, the federal government, all identified what were the facilities from a legacy perspective for high-performance sport that would be the beneficiaries of the fund. That was locked down, effectively, at the signing of all the parties, in 2009 when the multi-party agreement was reached.

All of the other municipalities signed a joinder, saying they recognized that those were the facilities that would be getting the funds from the legacy fund. I can't speak to the details of how that agreement finally came into place by all the partners. The goal was, particularly from

the Canadian Olympic Committee, if you look back to their original terms and conditions and interests from an athlete perspective, we don't have an aquatics centre in Ontario that can train athletes. We don't have a dive tank within the GTA. At the time of the bidding, there was one 50-metre pool, and apparently it was an inch too short for international competition. We don't have a velodrome anywhere in Canada that meets spec, and not a velodrome in the northeastern United States. We certainly don't have an athletic stadium that could meet spec.

I would note, as Mr. Miller would know, at the time of the bid, the documentation says that the velodrome and athletic stadium will be co-located in the city of Hamilton. That's not what happened. So now you have a velodrome in Milton and a stadium in Hamilton, but the obligations of the MPA to fund those three facilities carried through to where those facilities ended up.

Mr. Rod Jackson: Okay. So the legacy fund is going to last 20-odd years? Is that right?

Mr. Steve Harlow: Recently the Toronto Community Foundation was awarded the job of managing the \$70-million fund. It was done through a request for proposals that TO2015, the organizing committee, ran. The Toronto Community Foundation came in and they won the competition to be the fund manager. The board and then the province and Canada, which had approvals on the legacy fund plan, recently received that and gave the approvals.

The minimum projection is 20 years, with the potential for it to last as long as 30 to 40 years. Part of the interesting development on the legacy fund is that it has been designated as a potential charitable organization. So the Toronto Community Foundation, which has had a good record of raising funds, part of what they're committed to do is to find ways to grow the fund over time to make the facilities and the funding last longer than the normal amortization period of 20 years.

Mr. Rod Jackson: Okay. So help me understand here, where do the rules separate between the Toronto Community Foundation and the Legacy Fund Allocations Committee?

Mr. Steve Harlow: The Toronto Community Foundation has been awarded and has won and will be the fund manager responsible. Each of the venues that are recipients of the fund will enter into a financial arrangement and a funding arrangement with the Toronto Community Foundation. The Toronto Community Foundation, by virtue of its award, has been given a matrix around which it has to allocate the funds for each of them. I can probably find it, but I think it's about four-plus per year to the Scarborough College campus—I can't remember the numbers, but I can get them for you, what each facility would get.

The Legacy Fund Allocations Committee, which will represent the federal government, Ontario, the Canadian Olympic Committee, the Canadian Paralympic Committee and the city, will ensure that questions about "Is high-performance sport actually using the facility?" will

be advice, direction and steering given to the Toronto Community Foundation.

Again, I would say that the purpose of the fund is to offset the cost for high-performance sports and athletes and teams to use the facilities. Each year, each facility will send in their business plan about how they're going to use it. If nobody shows up at the velodrome to use it for sport, and they only use it for community recreation, they would not be eligible for the same amount of allocation that was set out, because the purpose is to offset the cost of sport. The allocation committee's job would be to advise the Toronto Community Foundation.

Mr. Rod Jackson: Okay. So the Legacy Fund Allocations Committee is going to be around for a while, I assume?

Mr. Steve Harlow: Yes.

Mr. Rod Jackson: Are they part of that \$70-million number too? I'm assuming those people are paid to do that job—or are they volunteers?

Mr. Steve Harlow: They would be not paid. They would be appointed by the respective appointees: the federal government, Ontario, the Canadian Olympic Committee, the Canadian Paralympic Committee and the city. The persons who are appointed are not compensated. They're to do on behalf of their appointee.

Mr. Rod Jackson: Thank you for that. That \$70 million, \$5 million of that is from the province?

Mr. Steve Harlow: Five million dollars of the total \$70 million is part of the transfer payment with the organizing committee—of the \$500 million.

Mr. Rod Jackson: Okay.

Mr. Steve Harlow: So it's not net new; it's part of the \$500 million.

Mr. Rod Jackson: Okay. So it's in that—okay. Good, thank you.

Mr. Steve Harlow: As is the federal government's \$65 million; it's part of their \$500-million contribution that they have given for the organizing committee.

Mr. Rod Jackson: Okay, good. Thank you very much for that.

I want to go back a little bit to the PCL, the promotion, celebration and legacy strategy, \$42 million. It's an interesting bit of an anomaly for me. There's not a lot of detail surrounding it that I've been able to get out. We know it kind of includes the Pan Am trails, but that's really all I can dig up. Can you provide me with a little more detail—where this money is coming from and where it's going—and if possible, provide the committee with details of that \$42-million budget for the PCL?

Mr. Steve Harlow: The government announced, as you know, in August, a \$42-million promotion, celebration and legacy plan. In my remarks, I identified some of the comments that the government made at the time. To date, the government has announced and formally entered into agreements for trails to complete the 250 kilometres of the Pan Am trail. That represents about \$3.3 million. It will also leverage funds from the Trans Canada Trail corporately.

They just recently announced the Pan Am/Parapan Am Kids program. That is part of the legacy fund and the \$42 million that you're asking about. Of that, the province invested about \$3.3 million, the same number, but that's what it is, associated with that fund. That is combined with money that education will have gotten, as well as the Ministry of Tourism, Culture and Sport.

The MEDTE announced a contribution towards a business forum, Toronto Global Cities Summit. This matches the contribution that the city of Toronto announced in the summer around their Host City Showcase Program. I believe that's around \$150,000 that the MEDTE will be providing, and the idea is that that will be a legacy initiative and part of the \$42 million.

There's a number to come that are being finalized. There is a volunteer legacy component out there right now that the Ministry of Citizenship and Immigration is leading. There is an expression of interest out on MERX for a certification system and a recognition system that, pending the results of that EOI and RFP, will have final costing numbers.

1650

A number of the other pieces have not yet fully landed. Included in that, the city of Toronto has identified that Nathan Phillips Square will be a host site in their Host City Showcase Program in June. They announced that they will be providing funds, and they announced that they will also be seeking support from the provincial and federal governments. So that's an example of where we might decide to provide support.

In Vancouver, when Ontario did a torch relay, Ontario provided support for the part of the torch relay that came through Ontario. If we were to do something similar here, it would come from that \$42-million allocation. There are a number of moving parts that still have not been finalized with the \$42 million. My expectation is that those should be finalized and completed over the course of the next three months, but the how and when of those decisions are purely within the governments to make. My job is to ensure that we've got the partners lined up and that we've got the program ready to be delivered as successfully as possible.

Mr. Rod Jackson: Would you be able to provide the committee with the overall strategy of the PCL as well as the best breakdown of the budget money spent and the money planned to be spent?

Mr. Steve Harlow: The planned strategy?

Mr. Rod Jackson: Yes.

Mr. Steve Harlow: I don't have it. I could probably walk through it at a high level, but I could endeavour to provide it to the committee in written form. Is that what you're asking?

Mr. Rod Jackson: Yes, that's what I'm asking. I'm also looking for as much of a breakdown as possible on that \$42 million.

Mr. Steve Harlow: At this point, I would just note that any breakdown would purely be notional until details are finalized with specifics: responses to RFPs and final determinations. When the city of Toronto introduced

their Host City Showcase Program—if they're thinking of doing things that we were thinking of, how do we complement their work?—or if the city of Hamilton is going to do something, or if the city of Markham is going to do something, or if the community of Minden is going to do something. Part of what we want to do is make sure that we're finding all the partners who are there to maximize and optimize the dollars that we have available and that have been provided.

To your one question, sir, I would say that the way the program funds have worked is that the funds are given to the Pan/Parapan American Games Secretariat, and then we enter into funding agreements with the line ministries to execute against the program. In the case of the Pan/Parapan Am kids' program, education will ultimately receive the money to flow it. So there's one promotion, celebration and legacy submission. Each ministry will have an allocation.

Mr. Rod Jackson: Where does the original money come from? What pot?

Mr. Steve Harlow: The original money was a net new investment that the government decided to make, as was announced earlier in the year. I believe that in the most recent financial estimates that the Ministry of Finance released, you saw an in-year increase for the Pan/Parapan Am Games, and that is specifically referencing the dollars that were made for this year's allocation for the promotion, celebration and legacy.

Mr. Rod Jackson: Okay, so it goes right through your ministry. You're responsible for that.

Mr. Steve Harlow: We're responsible for getting the funds to the delivery ministry and then reporting on the results. We are looking to have a common metrics for results that we can report out in a regular way. How many kids have participated in the program? How many trails have been completed? Are we on track? What's the result of the volunteer effort that we're trying to advance? How successful have we been with the north-south business forum? The thinking is that the secretariat would be looking to be a central coordinating point for getting all of those inputs back to us and being able to demonstrate and measure progress, reporting out on those metrics.

Mr. Rod Jackson: Okay. How much time?

The Chair (Mr. Grant Crack): You have four minutes and 45 seconds.

Mr. Rod Jackson: Okay. For the legacy projects, how do you decide where that money is going to go? You're probably right in the midst of that. How do you allocate that money? How do you decide what ministries are going to get it and what organizations will get it, or however you break it down? And what kind of community engagement process are you going through to get to the point where you decide that giving it to the Ministry of Education for the school program is the right way to go? Fill me in on that process.

Mr. Steve Harlow: We actually started the process in the secretariat in almost the first part of when I started my portfolio in 2012. There was a recognition that we

were going to need to have a legacy initiative. We saw what the 2010 Vancouver Olympics did, as well as their promotion and celebration side. Under the direction of the deputy at the time, we undertook a fairly lengthy community outreach. We talked to groups like Participation. We talked to groups like Parks and Recreation Ontario. We talked to groups like the Hispanic council community of Ontario—I can't remember the exact name; don't quote me on that one, please. We talked to Sport Alliance Ontario. We talked to CivicAction. We talked to about 20 different organizations and said, "Here's what typical games legacy and promotion celebration activities are. Please let us know what your interests are, what you're thinking and what you would be interested in from a legacy perspective."

We then did some interjurisdictional analysis to see how other games' organizing committees have done it. What has BC done? They set up a separate corporation called Legacies Now and gave it \$32 million to go off and achieve some legacies independently. We then went out to ministries and said, "What are the kinds of things that you think could be attached to the Pan/Parapan Am Games that fit within objectives of the games?" So accessibility being one of them, "What can we do in accessibility from a games perspective?"

We took all of that outreach that we've done outside government and inside government and provided a number of options to government. Some of those will be much more expensive, some of them more—and out of that have come a broad number of pieces where the government said, "We're really interested in having these things be the legacy or the promotion and celebration objectives." As we finalized each one in being able to nail it down, get our numbers solid and get the partnerships in place, we've started to roll those out.

It has been an iterative process. It has evolved as we've gone forward. As new ministers have taken on the file, there's always been—we want to ensure that their patina is on the objectives, so it will continue to be a growing process. But there has been external outreach and internal, and we've got very solid proposals that are getting tighter and tighter all the time.

We've also worked with our organizing committee, understanding what their pieces are that we could lever, and I would say volunteers is number one. They're going to recruit 20,000 volunteers. How do we ensure the biggest callout for volunteers ever in Ontario so that from a public policy perspective, we are able to find a mechanism to capture that volunteer long after so that they can achieve things at local communities? Can we create something? We've seen that done very successfully in other jurisdictions.

That's the best I can do to try to answer your question at this point. Each time we run down each one, if it's implementable, if it can be done within the budget envelope—we have to check back in, and if the government says, "Yes, we're ready to go with that one," that's what we proceed with, sir.

Mr. Rod Jackson: Is that it?

The Chair (Mr. Grant Crack): Fifty-three seconds.

Mr. Rod Jackson: Are you responsible for oversight of that money after it's been allocated?

Mr. Steve Harlow: I'm responsible for reporting back any anomalies or missing of performance targets or objectives. So if the Ministry of Tourism, Culture and Sport has only built 100 kilometres of trail and they have 250 kilometres of trail to build, my job is to report that back, and they are held accountable for the delivery.

Mr. Rod Jackson: Okay. Thank you.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Jackson. We shall move to Mr. Miller from the NDP.

Mr. Paul Miller: Hi, Mr. Harlow. Thanks for coming in. I guess I'd like to start off with, could you define "partner engagement" and "legacy"? Are they two separate entities, or are partners always engagement and legacy?

Mr. Steve Harlow: Titles are not always the best things, but the way in which my division is split up is, I have a branch of four under one director responsible for—actually it's called "partner engagement and promotion." Her job, with her team of staff, is to find opportunities for different groups and organizations: How are they participating in the games? Are they engaged? We sit, as an observer, on 2015's community advisory councils, on the aboriginal leadership partnership councils, on the diversity council. Part of our role under the MPA is that the organizing committee has a number of things they have to achieve—a diversity plan, a youth engagement plan. So my partner engagement side is finding if they're achieving the targets and the things in a way in which we're supportive of.

Also on partner engagement, to be clear, sir, it includes the province's promotion agenda. So when you see the Ontario: Proud supporter of the People's Games banner popped up, that's an example of our area. It's also responsible for 2015. Whenever they hold an event, they have to recognize us, as well as the federal government. Before this job, I never realized how important signs were and the locations of everybody's recognition.

1700

The legacy side is purely looking at what the legacy initiatives are, some of which we've talked about. It's looking at the economic impact analysis of the games, and it is trying to understand what the other legacy pieces out there are that we're not directly delivering but others are starting to do. We know that 2015 sponsors have started to affiliate themselves as wanting to have a legacy, so what are their plans? We know the city of Toronto has identified a number of possible legacy initiatives, so how do they fit with things that we might be interested in etc.?

Mr. Paul Miller: Would you explain to me who your target industries and businesses and persons are for the partner engagement and legacy option?

Mr. Steve Harlow: I would say on the partner engagement side of things that the key partners are the accessibility community, the aboriginal community, the

GBLTQ community and I'll call it the ethnocultural community. Those would be the ones that we probably have the greatest engagement with at a discussion level as well as—I should not ever forget; I apologize—the sport community. As I said in my opening remarks, I wear two hats. I'm also the ADM of sport, recreation and community programs, so I have a very active sport portfolio.

Mr. Paul Miller: What do you offer these prospective partners to entice their participation?

Mr. Steve Harlow: I think a couple of things. So one of the roles that we play with the organizing committee is—the organizing committee is much more mature than they were, but they're not as deep an organization, with reach across all of government, to understand all the different not-for-profits: Who has capacity? What's going on out there? So part of our job in the partner engagement is to help 2015 reach some of the groups that they want from participation at a festival, or they have a community tour. But they've come to us and said, "What are all the different festivals and events across Ontario? Can you help us expedite it so we don't have to recreate the kind of expertise that you have?" So part of it is working with the organizing committee to minimize their efforts to try to reach the same groups.

Some of our ministry partners also have a good understanding of which community groups or not-for-profits have a better track record and are more successful, so making those connections for the organizing committee is part of what we've done.

Mr. Paul Miller: Did they pay for their opportunity to be part of your partner engagement and legacy?

Mr. Steve Harlow: No.

Mr. Paul Miller: Okay. If a company's partnership has a naming right, for how long will that naming right continue after the games are finished? For example, we have Tim Hortons Field—yes, I believe it's called Tim Hortons Field; Ivor Wynne is gone now—and I believe they paid \$1 million a year to have naming rights on the stadium. What's your involvement with those types of deals? I believe they cut the deal with the city of Hamilton, but do you oversee that? Are you involved in that in any way, shape or form?

Mr. Steve Harlow: I would say there are two kinds of naming rights. In any capital build that's associated with the games, the funding partners, under the multi-party agreement, have to get permission from the organizing committee to name the facility, the permanent facility. The funding partner—if they've put capital into the project, as well as the municipality—has an approval right over those naming processes.

In the case of Hamilton, the government of Ontario put an investment in that stadium. It is the only facility that we have an approval right for, from a capital perspective, on the permanent naming rights.

Mr. Paul Miller: They have a 10-year agreement.

Mr. Steve Harlow: So Hamilton went to the organizing committee and said, "We would like to sell the

naming right and call it Tim Hortons Field." I'm not sure of the French translation.

Mr. Paul Miller: Right. So they participated and came to you for an endorsement.

Mr. Steve Harlow: The organizing committee came to us and would say, "We're asking the federal government; we're asking Ontario because of your rights under the multi-party agreement."

Mr. Paul Miller: That offsets the community's costs, too, as well.

Mr. Steve Harlow: I understand that.

Mr. Paul Miller: And that's why they probably would work in partnership.

Mr. Steve Harlow: But the province of Ontario does not have any of those rights where we have not put capital dollars into a facility.

Mr. Paul Miller: How does the money flow from whom to whom, and what's the origin of any financial agreement? We've mentioned the cities involved, with Tim Hortons and, of course, the organizing committee, and I'm sure the ministry is made aware of the naming rights.

I guess the funds would flow back to the city, and the city would be in control of the Tim Hortons deal to name the field, which is in the municipality of Hamilton. Does the ministry take part in any of that, in any shape or form? That's a separate off-deal that the city has made with Tim Hortons that has been approved by the organizing committee.

Mr. Steve Harlow: The only thing for the organizing committee—or Ontario, or the federal government—where a capital investment is made is the appropriateness of the name. We do not have access to the details of the value for which it was sold, the terms and conditions or the length of the contract. That's purely between the venue owner and the potential sponsor.

Mr. Paul Miller: So that wouldn't show up on your books as operating costs; it would show up on the municipality's and Tim Hortons's, obviously.

Mr. Steve Harlow: Yes.

Mr. Paul Miller: Besides money, what is bartered, offered or gained from these partnerships when you become involved? I'll give you an example: If they were given prime seats for a highly sought-after event, do they get the best advertising position, that sort of thing? Are there any trade-offs? If I'm going to invest in the velodrome, for example, and I'm a major sponsor—RBC or whatever—do you cut any deals with them for box seats? Or do you not play that—

Mr. Steve Harlow: The 2015 commercial contracts with any of its sponsors are purely between 2015 and that commercial sponsor.

Mr. Paul Miller: But they could do that.

Mr. Steve Harlow: Pardon me?

Mr. Paul Miller: They could do that, though.

Mr. Steve Harlow: It's possible. I can't speak to whether or not they could—

Mr. Paul Miller: Would they have to run it by you guys?

Mr. Steve Harlow: They would not have to run it by us.

Mr. Paul Miller: So they could set up individual partnerships for financial gain for the municipality or the company in reference to a private box—I'm just giving you an example—seats, preferential parking or whatever? That can be cut by the 2015 committee without oversight from the ministry?

Mr. Steve Harlow: If I understand your question—let me play it back, so I make sure I have it.

Mr. Paul Miller: Okay, go ahead.

Mr. Steve Harlow: Are you referring to permanent rights, or just related to the games?

Mr. Paul Miller: Permanent or temporary.

Mr. Steve Harlow: So 2015 would not have any permanent rights that they can give, only as it relates to the games.

Mr. Paul Miller: That's a good answer, but what would be the involvement of the province after the games are done, and the facilities are built—Tim Hortons Field and the velodrome? Has the province got, in any way, shape or form, the ability to sell off its costs to a private organization to run it, to privatize it?

Mr. Steve Harlow: All of the facilities are owned by the municipality or the university, so the province has no ownership stake, right or interest.

Mr. Paul Miller: Okay, so they would deal with it.

Mr. Steve Harlow: There is a schedule to all of the agreements which requires the venue owners, going forward, to make those venues available for high-performance sport at a discounted rate, at a lower percentage than normal commercial rental rates. The purpose of that is to ensure that these facilities that were built for games, for future athletes and for future sport hosting can be used by the teams, by the athletes and by the sports going forward.

Mr. Paul Miller: Okay. Well, I'm going to hit a little closer to home now.

Mr. Steve Harlow: Okay.

Mr. Paul Miller: Your ADM position seems to be solely for the purposes of the games. How are the costs for your work and your staff's work shown on the books in the whole Pan Am/Parapan Am concept? Where do you fit in? Is this regular ministerial duties? It falls under your regular paycheque? Are there any performance bonuses for your group or you if you come in under budget or come in on time with the dealings you have with these other organizations? There's nothing there for you guys under your regular—

Mr. Steve Harlow: I am one ADM in a three-ADM division, part of the secretariat bound by the public service's overall service contract—

Mr. Paul Miller: No additional performance regarding this file?

Mr. Steve Harlow: No.

Mr. Paul Miller: Okay. I saw in your presentation that you mentioned on page 2, "Programs that have been enacted since August include the Ministry of Tourism, Culture and Sport's Pan Am/Parapan Am trails and the

Ministry of Economic Development, Trade and Employment's Pan Am business forum, in partnership with the city of Toronto." Where does Hamilton fit into this?

Mr. Steve Harlow: The Global Cities Summit forum is a forum that happens in Toronto in 2015. It is an application, a proposal, that the city made, and they've actually funded it. The province has previously participated and funded other Toronto Global Cities Summit forums, and the purpose of this one that MEDTE is interested in advocating is having the Global Cities Summit forum be a special one in 2015 during the games period, focused on the economic and business development opportunities—

Mr. Paul Miller: For Toronto?

1710

Mr. Steve Harlow: The Toronto Global Cities Summit is the name of it, but it certainly should include and involve a broader group around the GTA.

Mr. Paul Miller: What percentage are we talking here that would go outside the GTA?

Mr. Steve Harlow: I would have to confer with my colleagues at the Ministry of Economic Development, Trade and Employment.

Mr. Paul Miller: If you find out for me, I'd like to know what my city is getting out of it.

Mr. Steve Harlow: I can do that.

Mr. Paul Miller: Also, " ... Sport, Tourism and Culture, in partnership with Toronto 2015, introduced Pan Am/Parapan Am Kids for the province's schools, camps and after-school programs." Is that outside of Toronto too, or just Toronto?

Mr. Steve Harlow: Ideally, our target is 1.2 million kids across 4,000 schools across the entire province.

Mr. Paul Miller: The entire province.

Mr. Steve Harlow: Yes.

Mr. Paul Miller: So Hamilton certainly would fall under that auspice.

Mr. Steve Harlow: Hamilton would certainly fall under that auspice.

Mr. Paul Miller: Thank you. I guess my next question would be, do you have any direct involvement for the ministry with the Pan Am committee? Because one of the problems that we've faced on this whole exercise is the fact that they were setting up their own set of rules when it came to expenses, without real oversight from the ministry.

Obviously, it's been brought to the minister's attention about, whatever, the lattes, the parking tickets, all those horror stories you read about. What is the status of those things now? Have they re-examined their agenda? Have they re-examined their rights as a committee in reference to their dialogue with the ministry and you and your departments? Are they now following a new set of guidelines that have been imposed? Because the minister mentioned he was going to set down some rules. What's the status of that?

Mr. Steve Harlow: So I think that the deputy was here earlier last week to talk about the status.

Mr. Paul Miller: He didn't tell me a heck of a lot, but—

Mr. Steve Harlow: It's not part of my area of focus. I'm sure that I can go back and ask.

Mr. Paul Miller: I wasn't privy to that. I wasn't on that committee, but I'd like to know because certainly there were some problems with oversight and accountability, which we have made quite public. I'd appreciate some information on that because I'd like to know that the ministry, on all departments and all sections, is working hand in hand with the organizing committee, as well as any other partners, whether they be from the private sector or anyone else that is involved in the Pan Am/Parapan Games. Certainly, we want to know that the tax dollars are being channelled and we're getting a good bang for our buck, as opposed to legacy costs and waste. I would like to know where we're at with that too, if you could find that for me.

Mr. Steve Harlow: I will do so.

Mr. Paul Miller: Thank you, sir. Good presentation.

Mr. Steve Harlow: Thank you.

The Chair (Mr. Grant Crack): Well, thank you very much, sir. We shall move to the government. Ms. Damerla.

Ms. Dipika Damerla: Chair, before I start, just so I can organize my questioning: In the second round, is everybody going to be apportioned about—I don't think we'll get the 10 minutes in the second round, right? So is everybody just going to get about six or seven minutes? Is that correct?

The Chair (Mr. Grant Crack): I think that that's pretty accurate, yes.

Ms. Dipika Damerla: Thank you, Steve, for coming. It's a pleasure to have you, and you've been doing very well. I just wanted to start off a little bit, and you've already hinted at it, but perhaps you can recap about the responsibilities from the host jurisdiction perspective. From the technical briefing materials that I looked at, it looks like our government—that's the provincial government—has been quite clear about our host jurisdictional responsibilities like transportation, security, promotion, celebration and legacy.

In fact, it has been public knowledge that the province is investing in the rebuild of the old Wynne stadium, now to be called Tim Hortons stadium, in Hamilton, the construction of the Goldring Centre at the University of Toronto Scarborough campus and the \$709 million athletes' village.

Mr. Harlow, in the original bid to land the games, was the organizing committee, TO2015, ever responsible for building and funding the athletes' village?

Mr. Steve Harlow: The athletes' village in the bid document, though I'm here to speak mostly on the promotion, celebration legacy—but the bid documents identify that the funding was outside of the 2015 organizing committee's budget and was the responsibility of the Ontario government in the bid documents that was presented to PASO, the Pan American Sports Organization, and that the minister at the time announced.

Ms. Dipika Damerla: So from the get-go, it was very, very clear that the budget for the athletes' village is distinct from the operating budget for the rest of the games.

Mr. Steve Harlow: I can simply say that the public bid document separated those two. I can't speak to how people say what's clear and not clear, but I can speak to what was put down in the bid book around the cost of the athletes' village.

Ms. Dipika Damerla: Given what was put down in the bid book in terms of the cost of the athletes' village, do you find it a little confusing that Mr. Jackson and the opposition party say they're shocked that the athletes' village is not part of Toronto 2015's operating budget, as recently as, I think, a couple of months ago?

Mr. Steve Harlow: I don't know if I could comment, or whether it's appropriate for me to comment, on other people's shock or not. I would simply say that the contents of the documents were publicly available in the bid document, and I think the government, on a couple of occasions, has tried to articulate where the funding for different pieces is. I would note that those are elements that are outside of my area of accountability and responsibility. I'm focused on Pan Am legacy and promotion and celebration.

I do think that there is certainly a legacy component of the village that is my interest. How the village will be used post-games is very important. One of the interesting things from the legacy side of the village is the accessibility component. I know that was spoken to earlier by one of the individuals. We have talked with the accessibility community of recent on a number of occasions.

If you're an accessibility advocate, I think that the village speaks to an opportunity where, if you take the same square kilometres that that village is in Toronto and drop that in any other section of the city of Toronto, it will be the most accessible place for anybody with a wheelchair or anybody with a disability, because the street cuts will be made, the street lights will work, the stop signs will work. That's a legacy from the village perspective that I do have an interest in observing and working with, to ensure that that village is fully accessible and leaves a great legacy, post-games. I think that's actually a really interesting legacy.

Ms. Dipika Damerla: Actually, that's very good information that I did not know. Well done.

Back in 2009, it looks like the estimated cost for the athletes' village was about a billion dollars, but it is now \$709 million. Would that be correct?

Mr. Steve Harlow: Again, that's something that I think my deputy spoke to last time. I believe, from my understanding of the current estimates, that seems to be correct.

Ms. Dipika Damerla: Thank you very much. We spoke about some of the host jurisdictional responsibilities that we have, such as transportation, security, promotion, celebration and legacy. Are these typical responsibilities in multi-sport games, for a host?

Mr. Steve Harlow: I would look back across the last several games that we used as a reference point over the past few years. Typically, games host jurisdictions do invest in promotion, celebration and legacy. They invest directly as part of their contribution to an organizing committee, to showcase their community and be recognized. In addition, they also focus on some of their own interests and objectives, and that has been true, dating back, as far as we can tell, to the last six to eight games operations that we have recent and current information on.

We certainly know that BC invested about \$112 million in their promotion celebration. For anybody who was at the games in BC, there was a place called Robson Square that was effectively a BC ad, an experience for the visitors during the game to experience BC. They had the famous zip-line that everyone now refers to. They had rock-climbing walls. So they created space—

Mr. Paul Miller: It's where they had the riot too.

Mr. Steve Harlow: They had a riot, I hear, which was not part of their program. But they did create a space and a place to celebrate BC. They had evening fireworks.

An anecdotal, not completely verifiable, fact because you can't source it: Exit interviews' evidence suggests that for every individual who attends a sporting event during a games, four people attend the festival or celebration or street-side activity across the games area—so not just in Toronto but in Minden, when the competition is there.

1720

Mr. Miller has talked about the importance of soccer. In Hamilton you're going to have probably seven days, eight days of competition. That's going to be a lot of activity in Hamilton; whereas a place like Hardwood Hills will have one day of competition. What's happening in Hamilton around those days of competition? The spectator who goes to the competition does something else. That's something that I would talk with Neil Everson a little bit about, what Hamilton is planning and how it fits within the things. Markham, Ajax, similar; Welland, a flatwater kayak centre—what are they going to be doing for all of those competitions?

Ms. Dipika Damerla: Just coming back to the typical host responsibilities that we talked about, such as transportation, security, legacy: These types of investments are quite typical, would you say?

Mr. Steve Harlow: I think that history has shown that they are absolutely typical and it is part of achieving the host jurisdiction's goals associated with the games. The organizing committee wants to hold a great sporting event and that's their mandate. In hosting it, it gives you an opportunity to do other things, showcase yourself to the world, demonstrate your capacity, demonstrate your organizational skills, and to miss that opportunity would not be the greatest advice that I would give to people who were seeking my advice.

Ms. Dipika Damerla: And are the costs associated with these sorts of responsibilities—would it be perfectly

logical that these costs be outside of an operating budget for the organizing committee?

Mr. Steve Harlow: Again, the research that we have would suggest that you give money to the organizing committee to do certain events. In addition, you make your own investments as a host jurisdiction in areas that are required. I would note in the multi-party agreement, there is a section in there that specifically references that Ontario will be investing in other areas outside of the games budget. I could find that clause for you, if you want, but there is a specific reference that says that beyond the \$500-million contribution, Ontario will be providing levels of service as the host jurisdiction.

Ms. Dipika Damerla: So it was always envisaged that the costs associated with these typical host jurisdiction responsibilities would be outside of the operating budget in that clause. As well, would that be typical of what other jurisdictions have done, whether it's Vancouver, whether it's England?

Mr. Steve Harlow: The multi-party agreement was based on a model that Canada has used several times. When they've hosted, they've hosted Commonwealth Games; they've hosted other Pan Am Games; they've hosted Olympics. The original multi-party agreement that framed that out was based on the evolving model that the federal government has been able to share with other jurisdictions. Again, from a Canada perspective—I can't speak to how things work in Guadalajara, Mexico; it's a little different. But I can speak to how Canada and the provinces that have participated have typically operated. To that end, I would say that that is typical.

Ms. Dipika Damerla: So given that other jurisdictions have followed this system—we had quite clearly indicated that these costs would be any extra—any shock or outrage by the opposition as to why these are outside of the budget might be surprising.

Mr. Steve Harlow: Again, I don't want to avoid the question; I just don't think it's appropriate for me to comment on the views of the opposition.

Ms. Dipika Damerla: Fair enough. I just want to move on to another area that I know you are very closely associated with, and that is the legacy issue around the Pan Am Games and the legacy that the Pan Am Games will leave behind. As you know, our government has embraced the host jurisdiction responsibilities that come with landing the games. I think the additional investments that we are making, especially in our sport infrastructure, are wonderful, but the opposition parties, for some reason, don't seem to understand that this is more than just about the games. It's about Ontarians after the games as well, and that's where the legacy piece comes in. We want to make sure that the investments that we are making are not just for the games but that they pay off generations from now in terms of the ability of Ontarians to use these facilities but also in terms of Ontario having the opportunity to host other sporting events, of a different scale perhaps, that could leverage these existing facilities.

The infrastructure projects and games are important to Ontario, as I said, so all this negative attention that unfortunately the opposition is creating—I'm concerned that the crucial aspect of the legacy piece gets lost. In your role as the assistant deputy minister in the partner engagement and legacy division of the secretariat, can you tell us about some of the legacy pieces the games will leave behind when they're over?

Mr. Steve Harlow: Certainly. I would speak first to some of the facilities. I think, working closely with the organizing committee as they finalize the details around each of the facilities' construction builds, that they're making sure that they are thought about in terms of hosting future sport events.

We already know that the Milton people and the velodrome—they're already looking at their long-term hosting opportunities for that facility. We know that certainly Hamilton will be host of a future Grey Cup at some point in time. That's why it was built to the standard that it was, so that it could be able to host a future Grey Cup and not miss that opportunity for future investment. The Welland flatwater kayak centre will be one of the best in Canada for flatwater, and it's already starting to be used.

I think sport—and again, I have to wear my other hat, which is promoting sport and sport development. But one of the things that has happened with the venues and the infrastructure that we're building for the games is that they're not solely—like some of the 1976 facilities that were referenced earlier. We've come up with a partnership where multiple users are owning and sharing the facility, and that's not atypical. The University of Toronto's Scarborough College campus: It's a university rec centre. They'll be using it X number of hours. It's also a priority neighbourhood for kids who have issues. Part of the city of Toronto's programming at that facility will be to provide opportunities for kids through their recreation community programming. In addition, it will also serve high-performance sport. It's a new structure that has never been set up before. So that, in itself, is an example of how we're trying to work with multiple partners to ensure the facilities last long, not just for athletes—but certainly for athletes—but for community groups, for local groups, and to create longer-term economic opportunities.

The one thing we haven't done in detail as of yet—but I just started sitting down with my colleague from the city of Toronto, and I will be sitting down with Milton and Markham—is what are the long-term economic impacts associated with each of these facilities? What's the revenue generation coming forward? We've done some analysis on the economic impact of the infrastructure and the tourism, but what's the 20-year potential economic impact of these facilities, the jobs to maintain these facilities, the future tourism opportunities?

Mr. Whitaker is very eager to promote future hosting of competitions. They're not going to be Pan Am. It could be a FINA World Aquatics Championship. It could be an under-17 athletics competition. There are a number

of things—and it could be a future soccer competition. I know at one time there was interest in the Canadian Soccer Association collocating at the Hamilton stadium with a franchise. Is that part of the legacy?

So we've got a lot of work to do with our partners to help figure out and define and put them in a position to be successful around the legacy.

I also would offer that I think, through the organizing committee, that the government has a keen interest in the volunteers piece. I think it would be wonderful if we could create a scenario where every volunteer gets trained on accessibility training. We're working with the accessibility Ontario directorate on that. We're looking at how you maintain the momentum of a huge callout of 20,000 people wanting to volunteer for the games so that they get the skills that they get from this experience, and then they can come back and put on whatever organization, whatever festival, whatever sporting event.

We understand from the organizing committee that as much as they would like a pan-Canadian volunteer experience, the logistics are likely that 85% of the volunteers will be coming from across Ontario. They will be from Caledon. They will be from North Bay. They could be from Thunder Bay. So I think that's a big legacy piece.

I would also suggest that from my understanding of looking at other games and organizing committees—and we're seeing it happen a little bit right now in Sochi, although that's maybe not the best one to compare ourselves to. There is a sense of pride and place, and that really, from what I've observed and learned, has to do with the torch relay. There will be a torch relay for the Pan Am Games and the Parapan Am Games, for that matter. The torch is something that touches lots of communities and gives people a sense of momentum and pride of who we are and showcases—although I don't think we'll be going on the moon like Sochi did with their torch, I think we'll think of something that will recognize northern Ontario perhaps. But, again, I think a torch is something that can bring Ontario together, and we certainly know that the federal government is very interested in ensuring the torch isn't only in Ontario and are looking at how they ensure that other parts of Canada are able to share in that piece.

1730

Those are a couple of examples about what the legacy could be, and I would also suggest that there is a business side of it that should not be forgotten. Every year on the planet, there is an athletes' village built for a Winter Olympics, a Summer Olympics, a Commonwealth Games, a Pan/Parapan Am Games and an Asia Pacific Games.

The village development that Infrastructure Ontario is currently responsible for is being held up as very successful to date. We're at 60% completion, I understand, and the last beam was just signed. If, come 2015, that village has come in within the budget allocation and on time, that's potentially, I would say, export market capacity to other games/hosting jurisdictions. Villages

have typically been an area of high risk and high exposure. Rio, for those of you who follow this, is currently having huge problems with their village. We know in Vancouver, BC, they had some big challenges in terms of how they were able to deliver the village.

We're not there today, but being optimistic, if we're there by the time the village is built, and it's done in a way that meets or exceeds standards, Ontario's capacity and the builders and the suppliers that have been building it—that will be an interesting business development opportunity.

One of the most successful businesses from the BC Olympics was Karl's tent rental company. Karl basically did all of the tent rentals in BC. He got the contract through a competitive competition. His business has grown from a very small business to a very big, successful business. I don't know who Karl is for the Ontario games, but there are business opportunities for Ontario companies. There can be successes, and it will be interesting to see, post-games, who those companies are. I don't know who they are today, but there will be successful companies.

Ms. Dipika Damerla: Thank you for sharing that. Some very interesting examples.

How much time do I have left, Chair?

The Chair (Mr. Grant Crack): Thirty-five seconds.

Ms. Dipika Damerla: All right. So I'll leave the rest for the next round of questioning. Thank you.

The Chair (Mr. Grant Crack): It's 5:32, so 28 minutes divided by three is nine minutes apiece.

We shall move to the opposition: nine minutes.

Mr. Rod Jackson: Thank you, Chair. If I could just go back a little bit, I want to talk a little bit more about the legacy—well, specifically about the velodrome. The legacy fund is significant over a long period of time, and I would venture to say that part of the reason there is going to be only one velodrome in Canada is because they're extremely difficult to make profitable; we know that through experiences worldwide, even through the States where they have a significantly larger population and are much more focused on high-performance sports than we are.

I think it's safe to say—and part of the reason Hamilton decided they didn't want it is because it will be a challenge—everyone can recognize the velodrome will be a challenge. I'll be really impressed to see if it doesn't become a bit of a white elephant, frankly.

Can you explain to me, if there are costs associated with the velodrome over and above what the legacy fund provides over a period of time, who will be responsible for any of those operation cost overruns?

Mr. Steve Harlow: Once the facility is built, once it's operational and once it draws down from the allocation that has been afforded from the legacy fund, the venue owners have assumed accountability and responsibility for operating costs for that facility. In the case of the velodrome, it would be the town of Milton that would be responsible for the ongoing operating costs. I believe they're setting up a municipal corporation to manage the

day-to-day operations of the fund. I believe that's what they passed at city council recently.

Mr. Rod Jackson: Does this hold true for all the other venues too, whether they have cost overruns during the games or after the games? Because we know that there are significant investments being made by municipalities across Ontario for the games. It's my understanding that although the province accepts any debt incurred and guarantees any cost overruns, in many cases we know the cost overruns are actually being passed on to the venues, which in many cases are the municipalities or organizations themselves.

Mr. Steve Harlow: The ongoing operating costs are the responsibility of the municipality. What they signed on to in the multi-party agreement is with respect to the capital costs. So their contribution is effectively fixed for the capital build; the operating costs are theirs going forward.

Two of the facilities—or is it all three?—will be operational as soon as this summer, and they will start to draw down from the legacy fund to deal with their portion of the operating costs. But the long-term operating costs—you are correct—are the responsibility of the venue owner, and there is currently no obligation on behalf of the province or the federal government to sustain those facilities going forward.

Mr. Rod Jackson: Do you have any familiarity with the MOUs for each venue, or no?

Mr. Steve Harlow: There is an actual agreement between the organizing committee and the venue owner. My colleague in the infrastructure side would be responsible for any oversight associated with that, but I do get to see what's called schedule E, which is the assurance that the venue will be made available for sport and sport access going forward. This stems from a challenge that happened in BC, post-games, where one of the facilities that a considerable investment was made in by the federal government got turned into, effectively, a YMCA. Not that YMCAs are bad, but the purpose they invested in it was to maintain it as a skating surface, and it's no longer used for that purpose. So there is a commitment on the owners to maintain these for use for sport.

Mr. Rod Jackson: Now just quickly on the Pan Am village: Although you don't have responsibility for that venue, you seem to have some knowledge of it. Can you confirm that the cost is \$709 million for the Pan Am village?

Mr. Steve Harlow: I can refer you to the deputy's technical definition. I can't confirm that specific number, but if that's what the deputy said in the technical briefing when he was here last, I would certainly think that he's given you the accurate number.

Mr. Rod Jackson: Can you tell me how much money comes back to the province after the games are over?

Mr. Steve Harlow: I would not know that. That's outside of my area; sorry.

Mr. Rod Jackson: Okay. I want to touch a little bit on—and hopefully you can shed some light on this—the estimated provision for GDP and jobs for the Pan Am

Games. The estimation has been 3.7% for GDP and 26,000 jobs. Can you give us an idea of how many of these jobs are short-term, long-term? It's great if we have 26,000 jobs through construction and through the actual operation between now and the completion of the games, but I'd like to know how many of those jobs are going to continue into the future.

Mr. Steve Harlow: The economic impact and the 26,000 jobs are all related to during the lead-up and the construction and the execution of the games. It was generated by a company called Centre for Spatial Economics, through a competitive tender process in terms of—that's kind of the business they're in, is generating economic models. It's basically an input-output model. So what you do is you give them your inputs: What's the type of facility that's being built? Is it a hospital? Is it a school? Is it a rec centre? They take data points from thousands of comparables and say, "Here are the types of jobs that will be required to build, maintain and operate that facility during the construction period," and then are able to generate construction trades numbers. The tourism numbers come from a TRIM, a tourism recreation impact model, but those will be the tourism jobs created to support the games' delivery. So none of these speak to post-games jobs. It does take into account the number of jobs businesses will create in terms of whoever designed the logo. I'm sure they had a staff person involved in that. It'll include those things, but that's all leading up to, during and executing the games.

I don't have any information on September 2015, but as I mentioned, that's something that we're actually interested in doing some work on with some of our municipal partners.

Mr. Rod Jackson: Great. So under the promotion, celebration and legacy strategy of I believe it's the November 2013 report, it talks about developing employment supports, business supports and offering business development opportunities for Ontario companies. Can you give us an idea of where the benefits are coming from, when they're coming, what skills are going to be used to promote it? Give me an idea of what this promotion costs, and explain it to me.

1740

Mr. Steve Harlow: An example of the kind of things we're looking at there is on the construction side. There's a number of apprenticeship opportunities that we see on the construction side. Training, colleges and universities has responsibility for pre-apprenticeship training programs. How can they work with Infrastructure Ontario on the capital projects to develop pre-apprenticeship training programs over the last two years of the games?

Similarly, what are the business development opportunities for aboriginal businesses associated with the games? We're trying to work to find those out.

We talked a little bit about the north-south business forum, the global economic, Global Cities Summit that the Ministry of Economic Development, Trade and Employment is doing. That would be an example of one where we're trying to find opportunities to promote and

create new business linkages. Those would be the ones I could offer right now today, sir.

Mr. Rod Jackson: Okay. How much time, Chair?

The Chair (Mr. Grant Crack): One minute.

Mr. Rod Jackson: One minute—it's never enough time. I'm going to rush this. The announcement for the legacy plan for the Pan Am/Parapan Am Games said nothing about improving long-term accessibility for people with disabilities in Ontario, really. Can you assure us that there is a long-term plan for people with disabilities, legacy—

Mr. Steve Harlow: I can absolutely assure you that we're very involved with the accessibility advisory council. I met with the lead of that about three times over the last two months. I would note that, for example, in the most recent Pan Am/Parapan Am Kids announcement, part of that will be educating teachers and providing kids with opportunities to participate in parasport, accessible sport. An example is, one of the programs that will be rolled out in schools is teaching kids how to play goalball. Goalball is a sport played by blind people. You wear a mask, and a ball is thrown, kind of like dodge ball, in a way, through a net. But able-bodied kids and disabled kids who are blind can play that sport, so it doesn't create any barriers to participation. Coaches in schools will now know how to provide a sport so kids who are in a wheelchair won't just be line judges. I've had the opportunity to actually try wheelchair basketball. It is unbelievably hard. Putting that as a program in there is one of the ways in which we can try to reach the accessibility community.

The Chair (Mr. Grant Crack): Thank you very much. We'll move to Mr. Miller from the third party.

Mr. Paul Miller: I noticed that the parliamentary assistant was a little concerned about the opposition understanding legacy costs. Let me enlighten her: I happen to have been, in 1967, at Expo 67 as a teenager. I also was there at the Big O for the Olympics in 1976. One of my friends competed in it, and I was in Montreal. I'm not quite sure you were around at the time. We did see a lot of legacy costs after the games that were really, really costly. The province of Quebec—it was 20 years before they caught up. We saw that, and that's one of our biggest fears, as you can appreciate, in Ontario. We want the games to be successful; we certainly do not want to be stuck with some huge bills.

I know, for a fact, because I was in construction for many, many years, that after a facility has been used for the games, you have ongoing maintenance, you have renovation costs, and you have retrofits. Also, the community has to make it reasonable for the general public to access the facility, to be able to use it, to have fair prices for amateur teams or amateur people. Has this been taken under consideration for the legacy after the games? I know for a fact that some of these facilities, in many parts of North America, become very costly to maintain. They also become out of reach for the financially challenged people in our province who may not have the wherewithal to be able to go to these facilities and train

and keep up with their dream. A lot of these kids are very talented and athletic, but they can't afford it. Has your organization taken that into consideration?

Mr. Steve Harlow: First of all, I'd just like to note that I too was at the 1967 Expo. There's a picture of me, though I can't remember it. But I was there, sir.

But I would say that, as part of any municipality coming forward to put up their hand and say, "Yes, we want this facility," what they need to demonstrate is, "Are you aware of the long-term operating, and are you aware of the obligations that you're effectively assuming and that you're going to need to make it available for sport teams going forward?"

In some cases, some municipalities said, "I wasn't aware of that. I'm not prepared to go forward and proceed because oy, that's a big cost." Right now, you're in a situation where every community that has decided to sign on has effectively signed on to what this means from a long-term operating perspective.

An example of that, I think, would be Ajax, in terms of the softball and baseball. Earlier, at a point in time, one municipality thought they were going to sign on to do softball and baseball. When they started doing their due diligence, it was, "Hold on a second. What's it going to cost to maintain this? Do we have the support?" They said no, so the organizing committee had to go out and find a new host for softball and baseball.

The velodrome is another. The velodrome didn't have a home for a long time. One municipality took a hard look at it. They had an individual who was a big, active cyclist and put up some of his own money from a corporate perspective, but they made that hard choice and that commitment that says they are going to look out for the interests of their constituents.

Mr. Paul Miller: Through my experience in sports—my family has been highly involved at different levels over the years—I've seen many times where facilities have problems after games. For example, when I boxed—boxing is very expensive, because you have to have the heavy bags and the light bags, you have to have the gym. It's a constant cost, and it's the same, whether you're going to use it for floor hockey or anything. Hockey, too: A lot of arenas have gone by the wayside because they're falling apart.

I guess my last question is, have there been any contingency funds established for the long-term legacy costs, if municipalities cannot?

Mr. Steve Harlow: The only fund that is available is for the legacy fund for those three designated facilities. In the case of the Ajax baseball and softball, neither the province nor the federal government has a separate pool set aside—no pun intended with "pool"—

Mr. Paul Miller: Right.

Mr. Steve Harlow: —to support those dollars. That's municipal. In the future, if governments have infrastructure funds, like they had with RInC a few years ago, those are the kinds of ones that would be eligible.

Mr. Paul Miller: It's certainly something to think about.

Mr. Steve Harlow: Absolutely.

Mr. Paul Miller: Thank you. Good presentation, by the way.

Mr. Steve Harlow: Thank you.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Miller. We'll move to the government. Ms. Damerla.

Ms. Dipika Damerla: Steve, that was a very interesting point, and I'm glad you brought it up—the point that municipalities had a choice. I know, for instance, that Mississauga took a pass on having a facility. Really, this has been a partnership. Municipalities are well aware of their future commitments, and they are all willing hosts of these legacy pieces. I just wanted to clarify that.

I'd like to now discuss the estimates committee process and the motion requesting documents. Are you familiar with that at all?

Mr. Steve Harlow: I was in the room during those discussions and recesses and all the rest that happened, but that's fundamentally the corporate CAO's area for managing.

Ms. Dipika Damerla: Fair enough. I understand that your ministry delivered a number of documents to the Clerk a few weeks ago, as was requested by the estimates committee. Of course, we want to thank you and your colleagues for working so diligently to produce these requested documents, given the short timeline and the vastness, the breadth of the motion.

I just wonder how difficult it might have been to devote so many hours and resources into this endeavour for what is essentially—if you were around that day, you may recall—a fishing exercise, because repeatedly, you may recall, the government tried to pare down or narrow down the motion to something that was manageable on the idea that you build blocks. You ask for something; if you don't find what you're looking for or it leads you to something else, you ask for something more. But you don't ask for the whole ocean from the get-go when you can't drink it.

The last time I did a calculation, just based on the first dump of documents, it would take somebody five months, including weekends, reading eight hours a day—doing nothing but reading those documents for eight hours a day, seven days a week—to get through it. That just goes to show how frivolous that request was, quite frankly, given that that was just the first tranche and there's a second tranche coming—

Mr. Rob Leone: Point of order, Chair.
1750

The Chair (Mr. Grant Crack): Point of order: Mr. Leone.

Mr. Rob Leone: I believe she used the word "frivolous" when dealing with a matter of parliamentary privilege. I would ask the member to withdraw that.

The Chair (Mr. Grant Crack): I don't think "frivolous" would qualify. Thank you for the point of order.

You can continue, Ms. Damerla.

Ms. Dipika Damerla: Thank you, Chair.

Interjections.

Ms. Dipika Damerla: Anyway, if I can continue—but thank you.

I'm just wondering, as I've described the breadth of this motion, have you ever seen a motion this broad during your time as a public servant?

Mr. Steve Harlow: The question is, during my time, if I've ever seen a motion this broad—

Ms. Dipika Damerla: This broad, in terms of its request, which was essentially—

Mr. Steve Harlow: I would say that in the portfolios I've held over my time in the OPS, this is the first time I've ever been part of a request for document disclosure. So, as such, this would be, for me personally, the least and the most I've ever been asked, because it's the only time I've ever been part of a process.

Ms. Dipika Damerla: Fair enough. Okay. Were you aware of the attempts that were made at estimates by the government side to try and make the motion more helpful to the committee and more manageable for you and your colleagues?

Mr. Steve Harlow: I'm aware that those motions were put forward.

Ms. Dipika Damerla: And you're aware of the opposition repeatedly voting down our suggestions?

Mr. Steve Harlow: I observed all of the motions and amendments, and amendments to the amendments, that transpired over those days in October. I can't remember the exact dates but, yes, I was in the room during those occurrences.

Ms. Dipika Damerla: Could you perhaps comment on the impact this motion had—that is, responding to this motion and gathering all of that information—on your work and the work of your colleagues producing these documents?

Mr. Steve Harlow: Producing these documents is part of my job as an OPS public servant. I organize myself, my day and my team to ensure that we're able to continue to deliver against the objectives we were given, as well as meeting the requirements of the legislative committee. We find a way to get it done. The job of myself and my team, as public servants, is to respond to the directions of the minister, support my deputy, and respond to the committee in terms of its requests. We had to manage it, and we managed it.

Ms. Dipika Damerla: That's wonderful. Moving on, I'm just curious: Given that it has been over two weeks now since the first tranche was given, have you received any questions? I mean, I haven't seen any questions at all from the opposition based on those documents.

Mr. Rob Leone: We asked them today.

Ms. Dipika Damerla: No, based on the documents.

Mr. Vic Dhillon: Nothing relevant.

Ms. Dipika Damerla: Nothing relevant; exactly—I mean, nothing that would say I want—you know, "This leads me to something"—

Mr. Rob Leone: Are you saying—

Ms. Dipika Damerla: Anyway, I'm not questioning you. Sorry, Chair.

Interjections.

The Chair (Mr. Grant Crack): Order.

Ms. Dipika Damerla: The question is not to the opposition here. The question is to Mr. Harlow—

Interjections.

Mr. Steve Harlow: I have not received any questions directly from any member of the House. I have not received that, so I don't know if other people have.

Ms. Dipika Damerla: Well, it's going to take them five months to get through that first lot, never mind the second lot that's coming, so I don't think we'll be getting any questions any time soon. Thank you.

I just wanted to thank you for your insight on this. You know, it's something that is troubling, the fact that such a broad motion was brought forward without enough thought as to what it means to the bureaucracy and what it means to taxpayer dollars.

I just want to move on to one other thing, and that is with respect to security costs, if you'll just bear with me. One of the wonderful things about these games is the fact that they're distributed quite broadly across Ontario, yet within a distance that would, hopefully, be manageable for most tourists. I'm going to guess that that's the way it was organized. The games will have a footprint of 10,000 kilometres squared, including the GTHA.

We've spoken earlier about some of the transportation challenges. Now I'm just wondering, given the scale of the geographic footprint, if you could perhaps tell the committee today why the original bid numbers around security and transportation are different to what we have estimated now—the original bid numbers versus what has come out now.

Mr. Steve Harlow: I would just have to say that's something I think that my deputy spoke to earlier and is not part of my day-to-day responsibilities, so I think it would best be answered by the people who have the expertise in the security and transportation budgets. I really can't speak to the specifics on that matter.

Ms. Dipika Damerla: Or let me put it another way: Would it be typical to—in that original bid, are you required to provide some numbers?

Mr. Steve Harlow: My understanding of the requirements of the bid process is that, absolutely, in any bid you need to put in an allocation for games-related security, and that was done in the bid. Since that time, the ministry responsible, with the rest of the secretariat, has been doing that work and finalizing the rest of the numbers, as the host jurisdiction responsibilities. But beyond that, I'm really not the expert to speak to it.

Ms. Dipika Damerla: Okay. How long ago was this bid book created?

Mr. Steve Harlow: The bid book was approved by all the parties and tabled to the Pan American Sports Organization in April 2009.

Ms. Dipika Damerla: In 2009. We are in 2013. The games are going to be in 2015. So it would be fair to say that six years before an event, if you are estimating transportation and security, at best it would be a guesstimate that you're trying to put in the bid book because it's at

that point a guesstimate. It would be fair to say it would not be surprising that over time those numbers would evolve as you get closer to the games and you have a better sense of the final footprint.

Mr. Steve Harlow: I would again defer to transportation and security to determine if the numbers provided for the bid—but I think that's what we've seen as atypical, but that's one person's perspective. But certainly, the people that are responsible for those areas would be able to speak specifically to the terms and conditions of any changes that have happened between the bid.

But from what we've seen, the original estimates are based upon what you know at the time of the bid, and things change. For example, when the bid was in 2009, golf was not on the Olympic program. The IOC determined that golf was on the Olympic program. It's another venue. So how do you need to change? And it's constantly evolving, constantly changing.

Things can change on the International Olympic Committee, and PASO is a partner of the International Olympic Committee. If, all of a sudden, the new doping rules say less urine samples, more EPO blood testing, there's more EPO blood testing. That has to happen. So games is very evolving and you have to respond and adapt to whatever is happening in that world.

Ms. Dipika Damerla: So what I hear you—

The Chair (Mr. Grant Crack): Thank you very much, Ms. Damerla. That's the time.

I would like to thank you, Mr. Harlow, for coming and providing your insight. Good job, and thanks again.

There is no other business to conduct. This meeting is adjourned. Thank you members. Thank you Clerks' office, legislative research; you've done a wonderful job. Thank you.

The committee adjourned at 1758.

CONTENTS

Monday 9 December 2013

Pan/Parapan American Games review	G-439
Tourism Toronto	G-439
Mr. David Whitaker	
Mr. Andrew Weir	
Pan/Parapan American Games Secretariat	G-454
Mr. Steve Harlow	

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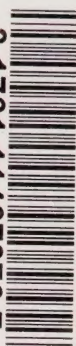
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